

# Yolo County Probation Department

## Policy Manual

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### **CHIEF'S PREFACE**

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

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

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



Dan Fruchtenicht, Chief Probation Officer

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### **LAW ENFORCEMENT CODE OF ETHICS**

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

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

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

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

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

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

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## **YOLO COUNTY PROBATION MISSION STATEMENT**

### **Mission**

- To provide public safety and foster behavioral change.

### **Vision**

- Our vision is to provide effective and innovative services while improving lives and creating a healthier and safer community.

### **Values**

- Commitment to community protection and service
- Commitment to supporting the needs of families
- Commitment to staff development, training and support
- Diversity
- Integrity
- Empowerment of staff to promote respectful and forthright communication
- Recognition of the potential for positive change in all people
- Recognition that staff are the Department's most valuable resource
- Respect and support the dignity of all individuals

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

## Law Enforcement Authority

### 100.1 PURPOSE AND SCOPE

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

### 100.2 PEACE OFFICER POWERS

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

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

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

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

#### 100.2.1 TIME OF MISDEMEANOR ARRESTS

Officers 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 (Pen. 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 officer.
  - 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.

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## *Law Enforcement Authority*

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### **100.3 CONSTITUTIONAL REQUIREMENTS**

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

### **100.4 POLICY**

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

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

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## Procedure and the Law

### 101.1 POLICY

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

Should any employee become aware of a conflict between the law and policy manuals or procedures, the employee shall notify his or her immediate Supervisor of the apparent conflict. The Supervisor will take the appropriate action to bring the matter to the attention of the Chief Probation Officer.

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

Any employee who intentionally provides inaccurate, misleading or untruthful information to, or intentionally withholds significant information from, the Court, Managers, or Supervisors of the Department is subject to disciplinary action.

## Oath of Office

### 104.1 PURPOSE AND SCOPE

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

### 104.2 MAINTENANCE OF RECORDS

The oath of office shall be filed as prescribed by law. (Govt. Code § 1363(a)(2).)

### 104.3 OATH OF OFFICE

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; Govt. Code § 3102.) The oath shall be as follows:

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

### 104.4 POLICY

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

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# Policy Manual

## 106.1 PURPOSE AND SCOPE

The Manual of the Yolo County Probation Department is hereby established and shall be referred to as the Policy Manual or the Manual. The Manual is a statement of the current policies, rules and guidelines of this Department, and does not supersede MOU's of the various bargaining units. 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.

### 106.1.1 DISCLAIMER

The provisions contained in this 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 Yolo County Probation Department and shall not be construed to create a higher standard or duty of care for civil or criminal liability against the County, its officials or employees. Violations of any provision of any policy contained within this Manual shall only form the basis for Departmental administrative action, training or discipline. The Yolo County Probation Department reserves the right to revise any policy content, in whole or in part.

## 106.2 POLICY

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

### 106.2.1 MANAGEMENT AND SUPERVISORS

Management Staff shall consist of the following:

- Chief Probation Officer
- Superintendent of the Juvenile Detention Facility
- Manager of Operations and Strategy
- Chief Fiscal Administrative Officer
- Probation Division Manager of Administration
- Probation Division Manager of Operations

These staff shall review all recommendations regarding proposed changes to the Manual at Management staff meetings.

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Supervisor Staff shall consist of the following:

- Supervising Probation Officers
- Supervising Detention Officers
- Business Services Supervisor
- Supervising Legal Secretary
- Secretary to the Director--Supervisory
- Administrative Assistant

All policy revisions as well as all new policies shall not be adopted and formalized until all Bargaining Units have reviewed the proposed and revised policies pursuant to Government Code section 3500. However, Departmental Directives may be issued by the Chief Probation Officer in order to make immediate changes to policy and procedure per Section 204.

### 106.2.2 OTHER PERSONNEL

All Department employees suggesting revision of the contents of the Policy Manual shall forward their suggestion, in writing, to the Chief Probation Officer or his/her designee who will consider the recommendation and forward to Management staff.

### 106.3 AUTHORITY

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

### 106.3.1 DEFINITIONS

The following words and terms shall have these assigned meanings, 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

**CHP** - The California Highway Patrol.

**CFR** - Code of Federal Regulations.

**County** - The County of Yolo.

**Department /YCPD** - The Yolo County Probation Department.

**DMV** - The Department of Motor Vehicles.

**Employee/Personnel** - Any person employed by the Department.

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**Juvenile** - Any person under the age of 18 years.

**Manual** - The Yolo County Probation Department Policy Manual.

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

**Member** - Any person who is employed or appointed by the Yolo County Probation Department including sworn officers, reserve officers, non-sworn employees and volunteers.

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

**Officer/Sworn** - Those employees, regardless of position, who are sworn employees of the Yolo County Probation Department.

**On-Duty** - Employee 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.

**PC** - Penal Code

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

**Position**- The job classification title held by an officer.

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

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

**STC** - Standards and Training for Corrections.

**USC** - United States Code

**W&I** - Welfare and Institutions Code

### 106.3.2 DISTRIBUTION OF MANUAL

Copies of the Policy Manual shall be distributed to the following:

- Chief Probation Officer
- Chief Fiscal Administrative Officer
- Manager of Operations and Strategy
- Superintendent of the Juvenile Detention Facility
- Probation Division Manager of Administration
- Probation Division Manager of Operations
- Training Coordinator

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A computerized version of the Policy Manual will be made available on the Department network for access by all employees. The computerized version will be limited to viewing and printing of specific sections. No changes shall be made to the electronic version without authorization.

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

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

#### **106.5 REVISIONS TO POLICIES**

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

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

The Chief Probation Officer or his or her designee will ensure that employees under his or her command are aware of any Policy Manual revision.

All Department employees suggesting revision of the contents of the Policy Manual shall forward their written suggestions to the Chief Probation Officer or his or her designee, who will consider the recommendations and forward them to the management staff as appropriate.

## Peace Officer Background Investigation

### 107.1 PURPOSE AND SCOPE

Peace Officers are to be free of felony convictions, be of good moral character, and be a citizen of the United States or a permanent resident alien who is eligible for and has applied for citizenship, and must meet all of the other minimum standards of Government Code section 1029 and Government Code section 1031. The Government Code requires that a determination of these issues be made through a "thorough background investigation." For the purpose of carrying out the primary function of their respective employment, Penal Code section 830.5 establishes Probation Officers and Detention Officers as peace officers.

#### 107.1.1 RELEASE OF INFORMATION

In order to fulfill the requirement of a background investigation, it is necessary to secure an authorization to release information from potential peace officer employees and to secure from them, listed references. The release of information will enable background investigators to gather previous background information concerning the applicant from former employers, friends, associates, educational institutions and financial institutions. Background investigations shall be required for all new appointments to sworn positions. Intradepartmental promotions from one peace officer position to another shall not require a new background investigation.

#### 107.1.2 PROCEDURES

The following procedures are established for conducting background investigations:

- (a) Each sworn officer applicant shall sign and date the "Authorization to Release Information" form during the Departmental application process.
- (b) Each sworn officer applicant shall sign and date an acknowledgment form advising the applicant his or her fingerprints will be checked against the Department of Justice and FBI databases, as required by law. If hired, periodic updates from each database will be received by the Department.
- (c) Each sworn officer applicant shall sign and date an acknowledgment form advising the applicant his or her driving record will be checked with the California Department of Motor Vehicles. If hired, periodic updates will be received by the Department from the California Department of Motor Vehicles regarding their driving record.
- (d) Each sworn officer applicant shall submit his or her fingerprints through the Live Scan process to be checked against FBI and CA DOJ databases.
- (e) The required application information shall be forwarded to the background investigation agency contracted with the Department or to the Interdepartmental Background Investigator. The background investigators shall prepare and forward a complete report to the Department.
- (f) Upon receipt and review of said background investigation, the Chief Probation Officer and/or designee will determine if the applicant is suitable for employment.

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### *Peace Officer Background Investigation*

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- (g) If the applicant is determined to be suitable for employment, an appointment for a psychological examination shall be scheduled. Government Code section 1031(f) requires that peace officers be found free from any emotional or mental condition that may adversely affect the exercise of his or her peace officer powers. Upon successful completion of the psychological examination, the applicant shall be scheduled for a physical examination which is covered under provisions of the Americans with Disabilities Act (ADA).

## **Chapter 2 - Organization and Administration**

## Organizational Structure and Responsibility

### 200.1 PURPOSE AND SCOPE

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

### 200.2 DIVISIONS

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

- Administration
- Probation Services
- Juvenile Detention Facility and Alternative Sentencing Program/Transportation

#### 200.2.1 ADMINISTRATION DIVISION

Administration consists of Analytical Services, Facilities Management, Financial Services, Information Technology, Personnel Administration and Support Services. Administration is under the direct supervision of the Chief Fiscal Administrative Officer whose primary responsibility is to oversee and manage the fiscal and administrative functions of the Probation Department.

#### 200.2.2 PROBATION SERVICES DIVISION

Probation Services are directly supervised by the Division Administrative Manager and the Division Operations Manager, whose primary responsibilities are to provide general management direction and control of all probation services functions within the Department. Probation Services consists of the following units: Adult and Juvenile Court Services, Adult and Juvenile Field Services, Pre-Trial Services, and all other probation services.

#### 200.2.3 JUVENILE DETENTION FACILITY AND ALTERNATIVE SENTENCING PROGRAM/TRANSPORTATION DIVISION

The Yolo County Juvenile Detention Facility is under the management of the Superintendent of the Juvenile Detention Facility. The Superintendent of the Juvenile Detention Facility provides general supervision and control for that facility. The Juvenile Detention Facility consists of custody services, enhanced education services, and provides services for individual special needs of detained minors.

The Alternative Sentencing Program/Transportation Unit is under the management of the Superintendent of the Juvenile Detention Facility. The Alternative Sentencing Program provides community work for individuals in lieu of custody in County Jail, and/or fines as set by the Superior Court. The Transportation Program provides supervised transportation of both Adult and Juvenile offenders as required by the Court and assists in offenders attending treatment, placement and Court appearances.

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## Departmental Directive

### 204.1 PURPOSE AND SCOPE

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

#### 204.1.1 DEPARTMENTAL DIRECTIVE PROTOCOL

Departmental Directives will be incorporated into the Manual as required upon concluding the review and approval process or where required, meet and confer with the appropriate bargaining unit(s). Departmental Directives will modify existing policies or create a new policy as appropriate and will be rescinded upon incorporation into the Manual.

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

Any Departmental Directives issued after publication of the Manual shall be numbered consecutively starting with the last two digits of the year, followed by the number 01. For example, 13-01 signifies the first Departmental Directive for the year 2013.

### 204.2 STAFF

Management staff shall review and provide comment on revisions of the Policy Manual, which will incorporate changes originally made by a Departmental Directive.

#### 204.2.1 CHIEF PROBATION OFFICER

The Chief Probation Officer or his or her designee shall issue all Departmental Directives.

### 204.3 ACCEPTANCE OF DEPARTMENTAL DIRECTIVES

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

## Juvenile Justice & Delinquency Prevention

### 207.1 PURPOSE AND SCOPE

The Juvenile Justice and Delinquency Prevention Commission is authorized as outlined pursuant to Welfare and Institutions Code section 225.

The Chief Probation Officer may designate staff support for the Commission as deemed appropriate.

#### 207.1.1 MEMBERSHIP

The Commission is comprised of not less than seven (7) and no more than fifteen (15) citizens appointed by the Presiding Judge of the Superior Court with concurrence of the Juvenile Court Judge. Two (2) or more of the members shall be persons who are between fourteen (14) and twenty-one (21) years of age, provided there are available persons of this age that are able to carry out the duties of a commission member in a manner satisfactory to the appointing authority. The term of the appointment is four (4) years.

#### 207.1.2 DUTIES

The duties of the Commission include the following:

- (a) Inquire into the administration of the Juvenile Court Law in Yolo County.
- (b) Inspect each jail or lockup within the County used for the confinement of any minor under the age of eighteen (18) years and report the findings of such inspection together with its recommendations based thereon, in writing, to the Juvenile Court.
- (c) Recommend to any person charged with the administration of any of the Department facilities such changes as it has concluded after investigation.
- (d) Publish its recommendations.
- (e) Make annual inspections of County facilities that are designed to house any minor under the age of eighteen (18).

## Training Policy

### 208.1 PURPOSE AND SCOPE

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

### 208.2 PHILOSOPHY

The Department seeks to provide ongoing training and encourages all personnel to participate in advanced training and formal education on a continual basis. Training is provided within the confines of funding, requirements of a given assignment, staffing levels, and legal mandates. Whenever possible, the Department will use courses certified by the Standards and Training for Corrections (STC), or will make every effort to secure special certification if appropriate.

#### 208.2.1 STC ANNUAL HOURS

The Training Coordinator or designee will provide an adequate selection of courses for annual STC training hours. The Department's Training Coordinator or designee will monitor the training hours of each employee, but the ultimate responsibility for this task lies with each employee's immediate Supervisor. The STC program requires that entry-level Probation Officers, Detention Officers, Supervisors and Management staff participate in CORE training courses. The amount of hours and time limit in which to complete the training depends upon the job classification. Thereafter, the employees are required to complete annual training; the number of hours depending on the employee's job classification. Each training year corresponds to the County's fiscal year beginning on July 1st, and ending the following June 30th. The Department requires that all annual training be completed before May 31st of each training year.

#### 208.2.2 STC CORE HOURS

Every new peace officer and certain designated, newly promoted peace officers must complete CORE training within a one-year period; that is one-year from the date of new hire, or one year from the date of promotion to the new classification that requires CORE training. The Training Coordinator or designee will be responsible for locating and making arrangements for the required CORE training hours.

### 208.3 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 Department personnel
- (c) Provide for continued professional development of Department personnel

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### **208.4 EVALUATION TRAINING PLAN**

The employee and the employee's Supervisor will develop a training plan during the employee's annual evaluation process. It is the responsibility of the Supervisor and employee to work with the Training Coordinator to make arrangements to locate and enroll in all training identified in the training plan. The plan will address the following areas:

- State Mandated Training
- Critical Issues Training

### **208.5 TRAINING FOR NON-STC STAFF**

Employees designated as non-STC staff are encouraged to participate in training. It is the responsibility of their immediate Supervisors to evaluate the non-STC staff and recommend appropriate training as needed and available.

Non-STC staff may attend STC training upon their request and with approval by their Supervisor and the Training Coordinator.

### **208.6 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. Approved vacation.
  3. Sick leave.
  4. Physical limitations or injuries preventing the employee's participation.
  5. Emergency situations.
- (b) When an employee is unable to attend mandatory training, that employee shall:
  1. Notify his or her immediate Supervisor and Training Coordinator as soon as possible but no later than three (3) hours before the start of training.
  2. Document his or her absence in a memorandum/email to his or her immediate Supervisor.
  3. Make arrangements through his or her immediate Supervisor and the Training Coordinator to attend the required training on an alternate date if available.

### **208.7 EXPECTATIONS OF MANAGERS AND SUPERVISORS**

Managers and Supervisors in the Department are expected to:

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- (a) Make staff aware training is their job assignment for the day or days staff are assigned to training, and relieve staff of other workload responsibilities for the duration of the training.
- (b) Maintain official training records for STC Certification (Training Coordinator or designee).
- (c) Follow up with staff after training to determine the quality of training and problems that are perceived.
- (d) Evaluate staff's training needs and request training in those areas of special needs, relative to assignment, and professional development.
- (e) Ensure the timely completion of annual STC training hours by staff under their supervision.
- (f) Provide notification to staff no less than 30 days prior to pre-scheduled training date.

### **208.8 EXPECTATIONS OF STAFF**

It is the responsibility of each employee to recognize that training is his or her job assignment for the day or days the employee is assigned to training and that he or she has individual responsibility to derive positive benefits from the training. Each employee is expected to:

- (a) Report disruptive or inappropriate behavior to the trainer.
- (b) Attend and complete all training for which he or she is enrolled.
- (c) Be punctual and return from breaks and lunch at designated times and remain in training until the class is dismissed.
- (d) Possess those training materials pertinent to the session.
- (e) Conduct himself or herself in an appropriate and professional manner.
- (f) Respect others' ideas, opinions and questions.
- (g) Follow directions of the trainer and/or proctor in each class.
- (h) Wear attire appropriate to the training in accordance with the Department's Personal Appearance policy.
- (i) Maintain his or her own training records.
- (j) After the training is completed, report via the chain of command any perceived inappropriate behavior by the trainer.
- (k) Contact the Supervisor to make appropriate arrangements if training ends earlier or later than scheduled.

### **208.9 EXPECTATIONS OF TRAINERS**

Persons providing training to Department staff are expected to:

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### *Training Policy*

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- (a) Be organized and prepared to start training at the indicated time.
- (b) Ensure in so far as possible the training area is properly set up and is conducive to the training being offered.
- (c) Ensure training handouts and other materials are prepared and available.
- (d) Maintain professionalism at all times.
- (e) Be responsive to the needs and questions of the class.
- (f) Control disruptive and/or inattentive behavior. If the trainees fail to conform, direct them to leave and immediately report back to their Supervisor. Report, in writing, to the Training Coordinator or designee, any incidents of disruptive and/or inattentive behavior by trainees.
- (g) Provide regular breaks to the trainees and resume training on time following the breaks.
- (h) Comply with STC Guidelines related to documented attendance sign in and evaluation by the class participants.

## Electronic Mail

### 212.1 PURPOSE AND SCOPE

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

### 212.2 EMAIL RIGHT OF PRIVACY

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

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

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

### 212.3 PROHIBITED USE OF EMAIL

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

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

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

### 212.4 EMAIL RECORD MANAGEMENT

Depending upon the content, email may constitute a public record under the California Public Records Act and must be managed in accordance with the established records retention schedule and in compliance with state law.

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### *Electronic Mail*

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The email system is not designed for long-term retention of messages, email that the employee desires to save or that becomes part of an official record should be printed and/or stored in another database. Users of email are solely responsible for the management of their mailboxes.

## **Administrative Communications**

### **214.1 PURPOSE AND SCOPE**

Administrative communications of the Yolo County Probation Department are governed by the following policies.

### **214.2 INTERNAL MEMORANDUM**

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

### **214.3 DEPARTMENT LETTERHEAD**

In order to ensure that the letterhead and name of the Department are not misused, all external correspondence shall be on Department letterhead. All Department letterhead shall bear the identity of the Chief Probation Officer. Personnel should use Department letterhead only for official business and with approval of their Supervisor.

### **214.4 SURVEYS**

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

## Display of Badges

### 215.1 POLICY

It is the policy of the Yolo County Probation Department that all deputized peace officers who have completed Penal Code section 832 training will wear and display their peace officer badges during on duty hours. With Supervisor approval, peace officers may conceal their badge or other identification while conducting authorized personal business on duty (e.g., lunch, break periods, travel to/from work) or when required to maintain anonymity or a low profile on duty.

### 215.2 ISSUANCE

All Departmental probation peace officers will receive a badge indicating their title within the Yolo County Probation Department, which shall be a display type badge, and also a belt clip badge to display from their belts. Detention Officers will only receive a belt clip badge to display from their belts. Badges shall be turned in to the immediate Supervisor upon an employee's resignation, termination or retirement from service. It is the Supervisor's and/or Manager's responsibility to forward recovered badges to the designee of the Chief Probation Officer.

### 215.3 METHOD OF DISPLAY

The other acceptable options are for the Probation Officer to obtain a pocket insert for the shirt or jacket and attach the badge to the pocket insert. Additionally, the badge may be on a chain or cord worn around the neck.

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

### 215.4 REPORTING AND REPLACEMENT OF LOST/STOLEN BADGES

Immediately upon realizing that a badge is missing or stolen, the officer is to submit a written report to the Chief Probation Officer through the chain of command. The Chief Probation Officer or his/her designee will ensure that law enforcement is notified of the badge number that is missing and/or stolen, and will provide written instruction to retire the badge number and issue a new badge to the officer.

The Chief Probation Officer retains the right to waive provisions of the policy when he or she determines it is in the best interest of the Department.

## Identification Cards

### 217.1 POLICY

The Yolo County Probation Department will issue identification cards to all Department staff and other agency staff working regularly in the Department and to members of the Juvenile Justice Commission.

### 217.2 DISPLAY OF DEPARTMENT IDENTIFICATION CARDS

All non-sworn staff issued identification cards are to keep them available at all times to display their identification when in a Department Facility during the hours of operation. The Departmental identification card is to be shown upon request when:

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

### 217.3 ISSUANCE OF IDENTIFICATION CARDS

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

- (a) Permanent employees and employees of other agencies, working within the Department will receive a photo identification card. These cards will show an expiration date on them, at least one (1) year from the date hired, and no more than five (5) years. They will specify the individual's job title, peace officer status, armed status if applicable, and employing department.
- (b) Juvenile Justice Commission members will receive photo identification cards. These will show an expiration date, coinciding with the term of office of the individual.
- (c) Temporary employees and provisional employees will receive a photo identification card that will expire at the end of the individual's appointment or one (1) year from the date of issuance.
- (d) Interns, students and volunteers will receive photo identification cards. These cards will specify the nature of the activity for which they are volunteering and will expire within six (6) months unless prior arrangements are made for a longer duration.

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### **217.4 RETURN OF IDENTIFICATION CARDS**

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

## Retiree Concealed Firearms

### 220.1 PURPOSE AND SCOPE

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

### 220.2 POLICY

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

### 220.3 LEOSA AUTHORITY

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

- (a) Separated from service in good standing from this Department as an officer.
- (b) Before such separation, had regular employment as a law enforcement officer for an aggregate of 10 years or more or, if employed as a law enforcement officer for less than 10 years, separated from service after completing any applicable probationary period due to a service-connected disability as determined by this Department.
- (c) Has not been disqualified for reasons related to mental health.
- (d) Has not entered into an agreement with this Department where the officer acknowledges that he or 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.

#### 220.3.1 LEOSA IDENTIFICATION CARD FORMAT

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

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

#### 220.3.2 AUTHORIZATION

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

- (a) In possession of photographic identification that identifies him or 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 or she has, within the past year, been tested or otherwise found by the law enforcement

## *Retiree Concealed Firearms*

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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.

### **220.4 FORMER OFFICER RESPONSIBILITIES**

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

#### **220.4.1 RESPONSIBILITIES UNDER LEOSA**

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

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

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

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

- (a) Qualify annually in the Standard 832 PC course of fire with the authorized firearm by a certified firearms instructor who is qualified in California to conduct a firearms qualification test for active duty law enforcement officers in California at the retired officer's expense.
- (b) Remain subject to all applicable Department policies and federal, state and local laws.
- (c) Not engage in conduct that compromises public safety.

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### *Retiree Concealed Firearms*

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- (d) Only be authorized to carry a concealed firearm approved by the Department.
- (e) CCW approved identification card is to be updated annually reflecting expiration date.

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

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

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

In addition to LEOSA authorization, a CCW endorsement under Penal Code section 25470 for any officer retired from this Department may be denied or revoked only upon a showing of good cause. The CCW endorsement may be immediately and temporarily revoked by the Chief Probation Officer or his or her designee when the conduct of a retired peace officer compromises public safety.

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

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### *Retiree Concealed Firearms*

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the matter will then be taken and, if warranted, the retiree will be contacted in person and advised of the temporary suspension and hearing information listed below.

1. Notification of the temporary suspension should also be promptly mailed to the retiree via first class mail, postage prepaid, return receipt requested. (Pen.Code § 26312.)
2. The Chief Probation Officer's designee should document the investigation, the actions taken and, if applicable, any notification made to the retiree. The memo should be forwarded to the Chief Probation Officer.
3. The personal and written notification should be as follows:
  - a. The retiree's CCW endorsement is immediately and temporarily suspended.
  - b. The retiree has 15 days to request a hearing to determine whether the temporary suspension should become permanent revocation.
  - c. The retiree will forfeit his or 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.

f. In the event that personal contact with the retiree cannot be reasonably achieved in a timely manner the Chief Probation Officer or his or her designee 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 Probation Officer's designee may request that a law enforcement officer from that agency act as the agent of the Department to deliver the written notification.

#### **220.7 FIREARM QUALIFICATIONS**

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

## **Chapter 3 - General Operations**

## Use of Force

### 300.1 PURPOSE AND SCOPE

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

#### 300.1.1 DEFINITIONS

Definitions related to this policy include:

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

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

**Imminent Threat**- A threat of death or serious bodily injury is "imminent" when, based on the totality of the circumstances, a reasonable officer in the same situation would believe that a person has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to the officer or another person. An imminent harm is not merely a fear of future harm, no matter how great the likelihood of the harm, but is one that, from the appearances, must be instantly confronted and addressed.

**Totality of Circumstances**- All facts known to the peace officer at the time, including the conduct of the officer and the subject leading up to the use of deadly force.

### 300.2 POLICY

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

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

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

#### 300.2.1 DUTY TO INTERCEDE

Any officer present and observing another officer using force that is clearly beyond that which is objectively reasonable under the circumstances shall, when in a position to do so, intercede to prevent the use of unreasonable force. An officer who observes another employee use force

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that exceeds the degree of force permitted by law should promptly report these observations to a Supervisor.

### **300.3 USE OF FORCE**

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

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

Given that no policy can predict every possible situation an officer might encounter, officers are entrusted to use well-reasoned discretion in determining the appropriate use of force in each incident.

It is also recognized circumstances may arise in which officers reasonably believe it would be impractical or ineffective to use any of the tools, weapons, or methods provided by the Department. Officers may find it more effective or reasonable to improvise their response to rapidly unfolding conditions they are confronting. In such circumstances, the use of any improvised device or method must nonetheless be objectively reasonable and utilized only to the degree that reasonably appears necessary to accomplish a legitimate law enforcement purpose.

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

#### **300.3.1 USE OF FORCE TO EFFECT AN ARREST**

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

#### **300.3.2 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE**

When determining whether to apply force and evaluating whether an officer has used reasonable force, a number of factors should be taken into consideration, as time and circumstances permit. (Penal Code § 835a.) These factors include but are not limited to:

- (a) The apparent immediacy and severity of the threat to officers or others.
- (b) The conduct of the individual being confronted, as reasonably perceived by the officer at the time.

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### *Use of Force*

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- (c) Officer/subject factors (age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of officers available vs. subjects).
- (d) The conduct of the involved officer.
- (e) The effects of drugs or alcohol.
- (f) The individual's apparent mental state or capacity.
- (g) The individual's apparent ability to understand and comply with officer commands.
- (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.
- (k) Seriousness of the suspected offense or reason for contact with the individual.
- (l) Training and experience of the officer.
- (m) Potential for injury to officers, suspects, and others.
- (n) Whether the person appears to be resisting, attempting to evade arrest by flight, or is attacking the officer.
- (o) The risk and reasonably foreseeable consequences of escape.
- (p) The apparent need for immediate control of the subject or a prompt resolution of the situation.
- (q) Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the officer or others.
- (r) Prior contacts with the subject or awareness of any propensity for violence.
- (s) Any other exigent circumstances.

#### 300.3.3 PAIN COMPLIANCE TECHNIQUES

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

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

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

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### **300.3.4 USE OF FORCE TO SEIZE EVIDENCE**

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

### **300.4 DEADLY FORCE APPLICATIONS**

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

- (a) An officer may use deadly force to protect him/herself or others from what he/she reasonably believes is an imminent threat of death or serious bodily injury to the officer or another person.
- (b) An officer may use deadly force to apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the officer reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended. Where feasible, the officer shall, prior to the use of force, make reasonable efforts to identify themselves as a peace officer and to warn that deadly force may be used, unless the officer has objectively reasonable grounds to believe the person is aware of those facts.

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

### **300.5 REPORTING THE USE OF FORCE**

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

#### **300.5.1 NOTIFICATION TO SUPERVISORS**

Supervisory notification shall be made as soon as practicable following the application of force.

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### 300.5.2 REPORTING TO CALIFORNIA DEPARTMENT OF JUSTICE

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

### **300.6 MEDICAL ASSISTANCE**

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 or she can be medically assessed.

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

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

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

### **300.7 SUPERVISOR RESPONSIBILITY**

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

- (a) Obtain the basic facts from the involved officers. Absent an allegation of misconduct or excessive force, this will be considered a routine contact in the normal course of duties.
- (b) Ensure that any injured parties are examined and treated.

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### *Use of Force*

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- (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 or 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 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 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) Ensure the handling officer completes the necessary report(s).
- (g) Review and approve all related reports.
- (h) Determine if there is any indication the subject may pursue civil litigation. 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.
- (i) 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 a Supervisor is unable to respond to the scene of an incident involving the reported application of force, the Supervisor is still expected to complete as many of the above items as circumstances permit.

#### **300.7.1 UNIT SUPERVISOR RESPONSIBILITY**

The assigned Supervisor or designee shall review each use of force by any personnel within his or her command to ensure compliance with this policy and to address any training issues.

#### **300.8 TRAINING**

Officers will receive periodic training on this policy and demonstrate their knowledge and understanding.

## Handcuffing and Restraints

### 304.1 PURPOSE AND SCOPE

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

### 304.2 POLICY

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

### 304.3 USE OF RESTRAINTS

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

When deciding whether to use any restraint, officers should 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 which case, consideration should be given, to handcuffing to the front to allow the person to sign or write notes.
- Whether the person has any other apparent disability.

### 304.4 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 and/or safety of the individual and others or during transportation and arrests. Officers shall only use Department issued handcuffs.

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

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

## *Handcuffing and Restraints*

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

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

### **304.5 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.

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

### **304.6 APPLICATION OF SPIT HOODS/MASKS/SOCKS**

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

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

Officers using spit hoods should ensure the spit hood is fastened properly to allow for adequate ventilation and the restrained person can breathe normally. Officers should provide assistance during the movement of restrained individuals due to the potential for impaired or distorted vision on the part of the individual.

Officers should avoid commingling individuals wearing spit hoods with other detainees. Spit hoods should not be used in situations where the restrained person is bleeding profusely from the area around the mouth or nose, or if there are indications the person has a medical condition, such as difficulty breathing or vomiting. In such cases, prompt medical care should be obtained.

If the person vomits while wearing a spit hood, the spit hood should be removed promptly and discarded.

When practicable, persons who have been sprayed with oleoresin capsicum (OC) spray should be thoroughly decontaminated, including hair, head and clothing before application of a spit hood. Those who have been placed in a spit hood should be continually monitored and shall not be left unattended until the spit hood is removed.

Spit hoods shall be discarded after each use.

## *Handcuffing and Restraints*

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### **304.7 APPLICATION OF LEG RESTRAINT DEVICES**

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

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

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

#### **304.7.1 GUIDELINES FOR USE OF LEG RESTRAINTS**

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

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

### **304.8 RESTRAINT OF DETAINEES**

Situations may arise where it is reasonable to restrain a detained individual who may, after brief investigation, be released without arrest. The use of restraints on detainees should continue only for as long as is reasonably necessary to ensure the safety of officers and others. When deciding

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whether to remove restraints from a detainee, officers should weigh the safety interests at hand against the continuing intrusion upon the detainee.

### **304.9 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 or waist chains should not be used unless the officer has a reasonable suspicion that the person may resist, attempt escape, injure self or others, or damage property. An officer shall not handcuff a person known to be pregnant behind their back.

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

### **304.10 NOTIFICATIONS**

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

### **304.11 REQUIRED DOCUMENTATION**

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

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

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

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

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### **304.12 TRAINING**

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

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

## Control Devices and Techniques

### 306.1 PURPOSE AND SCOPE

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

### 306.2 POLICY

In order to control subjects who are violent or who demonstrate the intent to be violent, the Yolo County Probation Department authorizes officers to use control devices in accordance with the guidelines in this policy and the Use of Force Policy. This policy acts in conjunction with Juvenile Detention Facility policies and procedures and is not intended to replace or modify them.

### 306.3 ISSUING, CARRYING AND USING CONTROL DEVICES

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

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

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

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

### 306.4 RESPONSIBILITIES

Every control device shall be inspected periodically by the Rangemaster or other Department designee as determined by the Chief Probation Officer.

#### 306.4.1 SUPERVISOR RESPONSIBILITIES

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

#### 306.4.2 RANGEMASTER RESPONSIBILITIES

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

Every control device will be periodically inspected by the Rangemaster or other Department designee. The inspection shall be documented, and records retained for at least five (5) years.

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### 306.4.3 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 Rangemaster or other Department designee for disposition. Damage to County property forms shall also be prepared and forwarded through the chain of command, when appropriate, explaining the cause of damage.

### **306.5 OLEORESIN CAPSICUM (OC) GUIDELINES**

Only authorized personnel may possess and maintain Department issued oleoresin capsicum (OC) spray. Chemical agents are weapons used to minimize the potential for injury to officers, offenders, or other persons. They should be used only in situations where such force reasonably appears justified and necessary.

#### 306.5.1 OC SPRAY

All personnel authorized to carry OC spray, shall complete the required course of instruction prior to possessing and using the OC spray.

Field and detention personnel carrying the OC spray, shall carry the device in its holster on the equipment belt provided by the Department. Plain clothes and non-field personnel may carry the OC spray as authorized, consistent with the needs of their assignment or at the direction of their Supervisor.

Canisters involved in any type of malfunction or damage shall be turned in to the Department Rangemaster or other Department designee for exchange. Damage to County Property forms shall also be forwarded to the appropriate Supervisor and shall explain the cause of damage for the purpose of audit and replacement.

#### 306.5.2 TREATMENT FOR OC SPRAY EXPOSURE

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

### **306.6 POST-APPLICATION NOTICE**

Whenever OC spray has been introduced into a residence, building interior, vehicle or other enclosed area, officers should provide the owners or occupants with written 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 an 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.

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### **306.7 TRAINING FOR CONTROL DEVICES**

The Training Coordinator shall ensure 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 each officer's training file.
- (c) Officers who fail to demonstrate proficiency with the control device or knowledge of this Department's Use of Force Policy will be provided remedial training. If an officer fails to demonstrate proficiency with the control device or knowledge of this Department's Use of Force Policy after remedial training, the officer will be restricted from carrying the control device and/or be re-assigned to an assignment that does not require the use of the control device in question.

### **306.8 REPORTING USE OF CONTROL DEVICES AND TECHNIQUES**

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

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## Officer-Involved Shootings and Deaths

### 308.1 PURPOSE AND SCOPE

The purpose of this policy is to establish procedures for the investigation of an incident in which a person is injured or dies as the result of an officer-involved shooting or dies as a result of other action of an officer. These policy provisions are in addition to the Yolo County Protocol for Response to Officer-Involved Fatal Incidents and are not intended to replace or conflict with the contents of the Yolo County Protocol.

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

### 308.2 TYPES OF INVESTIGATIONS

Officer-involved shootings and deaths involve several separate investigations. The investigations may include, but are not limited to the following:

- (a) A criminal investigation of the incident by the agency having jurisdiction over the location of the incident. This Department may relinquish its criminal investigation to an outside agency with the approval of the Chief Probation Officer,
- (b) A criminal investigation of the involved officer(s) conducted by an outside agency,
- (c) A civil investigation to determine potential liability conducted by the County of Yolo and the Yolo County Probation Department; and,
- (d) An administrative investigation conducted by the Yolo County Probation Department to determine if there were any violations of Department policy.

### 308.3 CONTROL OF INVESTIGATIONS

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

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

### 308.4 INVESTIGATION PROCESS

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

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#### 308.4.1 UNINVOLVED OFFICER RESPONSIBILITIES

Upon arrival at the scene of an officer-involved shooting, the first uninvolved YCPD officer will assume the responsibilities of a Supervisor until properly relieved. This officer should, as appropriate:

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

#### 308.4.2 SUPERVISOR RESPONSIBILITIES

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

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

#### 308.4.3 SUPERVISOR ON-SCENE PROCESS

Upon arrival at the scene, the first uninvolved YCPD Supervisor should ensure completion of the duties as outlined in section 308.4.1, in addition to:

- (a) Attempt to obtain a public safety statement from any uninvolved officers. In the event that there are no uninvolved officers who can supply adequate overview, the Supervisor should attempt to obtain a brief voluntary overview from one involved officer.
- (b) If necessary, the Supervisor may order any YCPD officer to immediately provide public safety information necessary to secure the scene, identify injured parties and pursue suspects.

1. Public safety information shall be limited to such things as outstanding suspect information, number and direction of any shots fired, perimeter of the incident scene, identity of known or potential witnesses and any other pertinent information.

2. The initial on-scene Supervisor should not attempt to order any involved officer to provide any information other than public safety information.

- (a) Provide all available information to the Chief Probation Officer or designee and Dispatch. If feasible, sensitive information should be communicated over secure networks.
- (b) Take command of and secure the incident scene with additional YCPD officers until properly relieved by another Supervisor or other jurisdictional agency assigned personnel or investigator.

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(c) As soon as practicable, ensure that involved officers are transported (separately, if feasible) to a suitable location for further direction

1. Each involved YCPD officer should be given an order not to discuss the incident with other involved officers or YCPD employees pending further direction from a Supervisor.

2. If applicable, 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 or she is provided with a comparable replacement weapon or transported by other officers.

### 308.4.4 NOTIFICATIONS

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

- Chief Probation Officer
- Manager of Operations and Strategy
- Probation Division Manager of Administration
- Probation Division Manager of Operations
- Superintendent of Juvenile Detention Facility
- Assigned Supervisor of Involved Officer.
- District Attorney's Chief Investigator or designee
- Outside agency investigator (if appropriate).
- Assigned Internal Affairs Officer.
- Civil liability response team.
- Psychological/peer support personnel.
- Chaplain.
- Coroner (if necessary).
- Involved officer's bargaining unit or legal representative (if requested).

### 308.4.5 INVOLVED OFFICERS

The following shall be considered for the involved officer:

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

1. Involved YCPD officers shall not be permitted to meet in a group with an attorney or any representative prior to providing a formal interview or report.

2. Requests from involved non-YCPD officers should be referred to their employing agency.

b. Discussions with licensed attorneys will be considered privileged as attorney-client communications.

c. Discussions with agency representatives/employee groups will be privileged only as to the discussion of non-criminal information. (Gov.Code § 3303(i).)

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d. A licensed psychotherapist shall be provided by the Department to each involved YCPD officer. A licensed psychotherapist may be provided to any other affected YCPD employees, upon request.

1. Interviews with a licensed psychotherapist will be considered privileged.

2. An interview or session with a licensed psychotherapist may take place prior to the officer providing a formal interview or report. However, involved officers shall not be permitted to consult or meet in a group with a licensed psychotherapist prior to providing a formal interview or report.

e. A separate fitness-for-duty exam may also be required (see the Fitness for Duty Policy).

f. Although the Department will honor the sensitivity of communications with peer counselors, there is no legal privilege to such communications. Peer counselors are cautioned against discussing the facts of any incident with an involved or witness officer.

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

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

### **308.5 CRIMINAL INVESTIGATION**

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

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

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

The following shall be considered for the involved officer:

- (a) YCPD Supervisors and assigned Internal Affairs personnel should not participate directly in any voluntary interview of YCPD officers. This will not prohibit such personnel from monitoring interviews or providing the criminal investigators with topics for inquiry.
- (b) If requested, any involved officer will be afforded the opportunity to consult with a representative of his or her choosing or an attorney prior to speaking with criminal investigators. (Gov. Code § 3303(i).) However, in order to maintain the integrity of each involved officer's statement, involved officers shall not consult or meet with a representative or an attorney 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

## *Officer-Involved Shootings and Deaths*

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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.

### **308.6 ADMINISTRATIVE INVESTIGATION**

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

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

- (a) Any officer involved in a shooting or death may be requested or compelled to provide a blood sample for alcohol/drug screening. Absent consent from the officer, such compelled samples and the results of any such testing shall not be disclosed to any criminal investigative agency.
- (b) If any officer has elected to provide a voluntary statement to criminal investigators, the assigned administrative investigator should review that statement before proceeding with any further interview of that officer.
  - 1. If a further interview of the officer is deemed necessary to determine policy compliance, care should be taken to limit the inquiry to new areas with minimal, if any, duplication of questions addressed in the voluntary statement. The involved officer shall be provided with a copy of his or her prior statement before proceeding with any subsequent interviews.
- (c) In the event an involved officer has elected to not provide criminal investigators with a voluntary statement, the assigned administrative investigator shall conduct an administrative interview to determine all relevant information.
  - 1. Although this interview should not be unreasonably delayed, care should be taken to ensure the officer's physical and psychological needs have been addressed before commencing the interview.
  - 2. If requested, the officer shall have the opportunity to select an uninvolved representative to be present during the interview. However, in order to maintain the integrity of each individual officer's statement, involved officers shall not consult or meet with a representative or attorney in groups prior to being interviewed. (Gov. Code § 3303(i).)
  - 3. Administrative interviews should be recorded by the investigator. The officer and/or the officer's representative also may record the interview. (Gov. Code § 3303(g).)
  - 4. The officer shall be informed of the nature of the investigation. The an officer, shall be advised of his or her *Lybarger* or *Garrity* rights and ordered to

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provide full and truthful answers to all questions. The officer shall be informed the interview will be for administrative purposes only and the statement cannot be used criminally.

5. ]The assigned Internal Affairs Officer shall compile all relevant information and reports necessary for the Department to determine compliance with applicable policies.
6. Any other indications of potential policy violations shall be determined in accordance with standard disciplinary procedures.

### **308.7 REPORTING**

If the death of an individual occurs as the result of any action or inaction by the Yolo County Probation Department and qualifies to be reported to the state as a justifiable homicide or an in-custody death, the Chief Probation Officer or designee will ensure that the Supervisor or designee is provided with enough information to meet the reporting requirements. (Pen. Code § 196; Pen. Code § 13022; Gov. Code § 12525.)

### **308.8 CIVIL LIABILITY RESPONSE**

An employee of this Department may be assigned to work exclusively under the direction of the legal counsel for the Department to assist in the preparation of materials 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 process is not intended to interfere with any other investigation but shall be given reasonable access to all other investigations.

### **308.9 DEBRIEFING**

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

#### **308.9.1 CRITICAL INCIDENT/STRESS DEBRIEFING**

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

The debriefing is not part of any investigative process. Although the Department will honor the sensitivity of communications, there is no legal privilege to such communications. Care should be taken not to release or repeat any communication made during a debriefing unless otherwise authorized by policy, law or a valid court order.

Attendance at the debriefing shall only include those members of the Department directly involved in the incident, which can include support personnel (e.g., non-sworn personnel). Family or other support personnel may attend with the concurrence of those involved in the incident. The

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debriefing shall be closed to the public and should be closed to all other employees of the Department, including Supervisory and assigned Internal Affairs personnel.

#### **308.9.2 TACTICAL DEBRIEFING**

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

#### **308.10 MEDIA RELATIONS**

Any media release shall be prepared with input and concurrence from the Chief Probation Officer or designee and Department representative responsible for each phase of the investigation. Releases will be available to the Supervisor, Chief Probation Officer and Chief Probation Officer's Designee in the event of inquiries from the media.

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

## Firearms

### 310.1 PURPOSE AND SCOPE

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

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

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

#### 310.1.1 LEGAL AUTHORITY TO CARRY AND USE A FIREARM

The peace officer status of probation officers is granted by Penal Code section 830.5: which provides that probation officers and deputy probation officers may carry firearms only if authorized and under those terms and conditions specified by their employing agency.

The probation officer's use of peace officer powers is defined by statute, court decisions and opinions of the California Attorney General's Office.

Penal Code section 830.5 (a) states, in part:

- (a) "...Except as otherwise provided in this subdivision, the authority of these parole or probation officers shall extend only as follows:
  1. To conditions of parole, probation, mandatory supervision, or post-release community supervision by any person in this state on parole, probation, mandatory supervision, or post-release community supervision.
  2. To the escape of any inmate or ward from a state or local institution.
  3. To the transportation of persons on parole, probation, mandatory supervision, or post-release community supervision.
  4. To violations of any penal provisions of law which are discovered while performing the usual or authorized duties of his or her employment.
  5. To the rendering of mutual aid to any other law enforcement agency".

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

Under the provisions of Penal Code section 830.5, a probation officer holds peace officer "status" at all times and therefore may carry a personal, concealed firearm during off-duty hours without violating Penal Code section 25450. The "authority" to act as a peace officer, however,

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only extends to on-duty hours while the officer is engaged in the performance of his or her duties. It is the responsibility of the individual officer to maintain his or her eligibility to carry concealable firearms off-duty.

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

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

### 310.1.2 AUTHORIZATION TO CARRY A FIREARM ON DUTY

The Department will not order an officer to be armed. Any officer seeking authorization to be armed shall familiarize himself or herself with the Department's Firearms, Discharge of Firearms, Officer-Involved Shooting, and Use of Force policies, and submit his or her written request to be armed to his or her supervisor on the Department's "Request to be Armed" form.

The Arming Authorization shall be in writing and shall be signed by the Chief Probation Officer. No officer shall carry a firearm, other than his or her Department issued firearm or personal firearm qualified for on-duty use, on his or her person at any time or have a firearm in his or her possession in the office or at any other job location or on County property or in his or her vehicle without the prior written authorization of the Chief Probation Officer obtained in compliance with this policy.

The signed Arming Authorization form shall be kept in the officer's personnel file with copies to the Departmental Training Coordinator and Rangemaster or designee assigned with record retention.

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

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

The Chief Probation Officer may, at any time, for any reason without cause, revoke the authority of any officer to carry a firearm on duty. The officer shall immediately be informed of the revocation and, if necessary, transferred to an assignment not requiring arming. A copy of the written revocation shall be delivered to the officer within five (5) working days, and a copy shall be placed in the officer's personnel file. The officer shall be entitled to pursue any remedies allowed under the Public Safety Officers Procedural Bill of Rights Act and/or applicable MOU.

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#### 310.1.3 CARRYING THE FIREARM

a. Officers authorized to carry firearms on duty shall only carry firearms that have been issued by the Department or approved by the Chief Probation Officer and with which the officer has qualified as provided in this policy.

b. The authorized and approved firearm must be encased in a holster approved by the Rangemaster.

c. The firearm must be fully loaded with a round chambered.

d. Whenever an armed officer is in the field (e.g., on a school campus, conducting home visits, transportation, etc.) the officer shall carry the firearm in an approved retention holster.

e. Any officer authorized to carry a firearm shall have in his or her possession, whenever carrying a firearm, his or her Department- issued badge and identification card. Exceptions to this requirement need to be pre-approved and documented by a Supervisor. The badge must be displayed in close proximity to the firearm. However, armed officers may choose to wear their Department issued badge on a neck chain when the situation warrants (e.g., Court appearance, going to the homes of victims, meetings, etc.).

f. Officers authorized to carry firearms shall wear Department-authorized body armor at all times while on duty and engaged in out-of-office field activities, unless otherwise authorized by the Chief Probation Officer.

g. Unless pre-approved and documented by a Supervisor, officers authorized to carry firearms shall carry a minimum of one (1) less than lethal force option (e.g., O.C. spray, Taser) while on duty and engaged in out-of-office field activities.

h. If an armed officer is performing administrative duties (e.g., office work, Court appearance, etc.), the officer may carry the firearm in any approved holster.

i. Pursuant to protocols set by the Superior Court of California, County of Yolo, non-uniformed peace officers are required to inform the bailiff upon entering the courtroom that they are an armed peace officer. No peace officer is permitted to enter armed when attending court on personal business (e.g., traffic ticket, divorce, etc.) and must leave their firearm outside the courthouse while attending non-official court business.

j. Officers authorized to carry a firearm are encouraged to carry their weapon at all times while on duty. Armed personnel should have their firearms and all authorized safety equipment readily available to them while on duty. Any officer who requires his or her firearm to be stored (during lunch, training, or any meetings) should use the Department's gun lockers.

#### 310.1.4 RESTRICTION ON CARRYING FIREARMS

Officers who have been authorized to be armed are **prohibited** from carrying or using Department firearms under the following conditions:

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- (a) When an officer has consumed any alcoholic beverage or taken any drugs that would tend to adversely affect the officer's senses or judgment.
- (b) While injured or in a physical or mental condition causing inability to use a firearm effectively or properly, (e.g., broken arm, eye injury causing impaired vision, etc.).
- (c) While on disciplinary or investigative suspension.
- (d) While on leave of absence without pay or other period of unpaid absence from the Department or while on injury or disability status.
- (e) When authorization to carry a firearm has been revoked.
- (f) When the officer has been directed by the Rangemaster or a superior officer to cease carrying a firearm.

Any officer directed to cease carrying a firearm shall immediately surrender his or her firearm (if owned by the Department) and shall immediately cease carrying any firearm on-duty. The authorized person, who determined that the officer shall cease carrying the firearm is the person who shall take possession of that Department-owned firearm immediately.

If a suspension of authority to carry a firearm has been made, the person ordering the suspension shall submit a written report, within three (3) working days, to the Chief Probation Officer, indicating the circumstances that led to the suspension. The Chief Probation Officer will review the report and determine if the suspension should be upheld or if the suspension shall become permanent. Notice of the Chief's decision shall be made available or mailed to the officer within five (5) working days following submission of the report.

A written request for a review of any suspension or revocation may be made by the affected officer to the Chief Probation Officer within ten (10) working days of the officer's receipt of notification of suspension or revocation of authority to carry a firearm. The written request shall state the reason(s) the authorization should be reinstated or specific objections to the decision. The Chief Probation Officer shall make a determination whether or not to continue to revoke the authorization. The Chief Probation Officer's decision is final.

#### 310.1.5 STOLEN OR LOST FIREARMS

- (a) An officer shall file a report with the appropriate law enforcement agency immediately upon discovering his or her on-duty firearm is missing.
- (b) An officer also shall immediately report a lost or stolen firearm to his or her Supervisor, who will notify the Chief Probation Officer via the chain of command.
- (c) The officer will file a written report regarding the matter with his or her Supervisor by the end of the assigned shift. The written report shall be submitted to the Chief Probation Officer through the chain of command.
- (d) The officer may be required to reimburse the Department in the event a Department-owned firearm and/or related equipment is lost or damaged through gross negligence

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of the officer. This reimbursement obligation is in addition to any disciplinary action that may be imposed by the Department due to the officer's negligence.

- (e) Arrangements may be made for the temporary or permanent issuance of another firearm if the Chief Probation Officer or designee authorizes such issuance. The officer shall qualify with the newly issued firearm before authorization to carry the firearm on-duty shall become effective.

### **310.2 RANGE ADMINISTRATION**

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

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

#### **310.2.1 INSPECTION AND STORAGE**

Handguns shall be inspected regularly. The officer shall ensure the firearm is carried in the proper condition and loaded with approved ammunition. All handguns shall be pointed in a safe direction or into clearing barrels.

Personally owned firearms approved by the Chief may be safely stored in gun lockers during a shift. Department-owned handguns or personally owned approved handguns shall be stored in gun lockers/lockbox when working in locations where firearms are prohibited (JDF, Jail, etc). Handguns may remain loaded if they are secured in an appropriate holster.

#### **310.2.2 STORAGE IN VEHICLES**

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

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

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

#### **310.2.3 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.

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### **310.3 RANGEMASTER DUTIES**

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

The range shall remain operational and accessible to Department officers during hours established by the Department. The hours shall be assigned by the Department's Rangemasters, and limited by the Department's contract for use of the range.

Rangemasters certified as armorers for the Department issued firearms have the responsibility of making periodic inspection, at least once a year, of all duty weapons carried by officers of this Department to verify proper operation. The Rangemaster has the authority to deem any privately owned weapon unfit for service. The officer will be responsible for all repairs to his or her personal weapon and it will not be returned to service until inspected by the Rangemaster.

The Rangemaster shall monitor all legislative and policy changes relating to the use of firearms by officers and shall provide necessary updated training in a timely manner. The Rangemaster and Training Coordinator shall maintain the training records of all officers authorized to carry firearms and shall promptly notify the Chief Probation Officer or designee when any such officer is not in compliance with the Department's training requirements.

### **310.4 AUTHORIZED WEAPONS**

No firearms will be carried that have not been thoroughly inspected by the Rangemaster during a regularly scheduled range date. Except in an emergency or as directed by a Supervisor, no firearm shall be carried by an officer who has not qualified with that weapon at an authorized department range. Officers are not permitted to carry secondary handguns while on duty.

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

#### **310.4.1 DUTY FIREARMS**

The Department issued or authorized handguns are the Glock models #17, #19, or ##26, using 9 mm ammunition.

#### **310.4.2 AMMUNITION**

Officers shall carry only Department-authorized ammunition. Officers shall be issued fresh duty ammunition in the specified quantity for all Department issued firearms during the officer's first scheduled qualification each year. Replacements for unserviceable or depleted ammunition issued by the Department shall be dispensed by the Rangemaster when needed in accordance with established policy.

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### **310.5 SAFE HANDLING OF FIREARMS**

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

#### **310.5.1 SAFETY CONSIDERATIONS**

- (a) Every firearm handled by officers authorized to be armed, shall be treated as a loaded firearm. Officers shall not unnecessarily display or handle any firearm.
- (b) Any unholstered firearm that is brought into a Probation Department facility shall first be unloaded.
- (c) Officers shall be governed by all rules and regulations pertaining to the use of the range and shall obey all orders issued by the Rangemaster. Officers shall not dry fire or practice quick draws except under Rangemaster supervision.
- (d) The cleaning of a firearm in an office-setting, vehicle, or in the field is prohibited except when the firearm has been fouled by a foreign substance that might render it inoperable. In those instances, all safety precautions must be taken when cleaning the firearm.
- (e) Officers shall not place or store any firearm on Department premises except where the place of storage is locked. No one shall carry firearms into the juvenile detention facility/jail facility or any part thereof when securing or processing a prisoner, but shall place all firearms in a secured location (preferably Department provided gun lockers). It shall be the responsibility of the booking/releasing officer to make sure that persons from outside agencies do not enter the juvenile detention facility/jail facility with any firearm.
- (f) All firearms equipped with safety devices shall be placed in a "safe" condition except when use is imminent.
- (g) Any weapon authorized by the Department to be carried on duty, that is found by the officer to be malfunctioning or needing service, shall not be carried. It shall be promptly presented to a Department supervisor or Rangemaster for inspection. Any weapon determined to be in need of service or repair during an inspection by the Department Rangemaster shall be immediately removed from service. If the weapon is the officer's primary duty weapon, a replacement weapon will be issued to the officer until the duty weapon is serviceable.

#### **310.5.2 STORAGE OF FIREARMS AT HOME**

Department employees shall ensure that all firearms and ammunition are locked and secured while in their homes, vehicles or any other area under their control in a manner that will keep them inaccessible to children and irresponsible adults.

Department employees shall be aware that negligent storage of a firearm may result in criminal prosecution under Penal Code section 25100.

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#### 310.5.3 STORAGE OF FIREARMS WHILE ON-DUTY

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

- (a) When not being carried during duty hours, the firearm and ammunition shall be stored in a secure and safe place that is not readily accessible to unauthorized persons. The firearm shall not be stored in a place where it is visible to anyone. If possible, the firearm should remain in the holster when being stored.
- (b) Firearms shall not be kept in the office overnight, unless authorized by the Rangemaster to be stored in Departmental issued lock boxes.
- (c) Firearms shall not be stored overnight at any time in a County vehicle or private vehicle.
- (d) If an on-duty armed officer does not wish to carry his or her firearm into a residence or public building, he or she shall take the following precautions:
  - 1. The firearm shall be stored temporarily either in a locked vehicle trunk or vehicle lock box not within plain view in the vehicle. If the firearm is stored in the vehicle, the automobile shall be locked.
  - 2. The officer shall exercise caution so that the public does not observe placement of the firearm into storage in the automobile.

#### 310.5.4 PERSONALLY- OWNED DUTY FIREARMS

Members desiring to carry an authorized but personally owned duty firearm must receive written approval from the Chief Probation Officer 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 department 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 Department qualification schedule. Members must demonstrate proficiency and safe handling, and that the firearm functions properly.
- (d) Members shall provide written notice of the make, model, color, serial number and caliber of the firearm to the Rangemaster, who will maintain a list of the information.

#### 310.6 FIREARMS QUALIFICATIONS

Any officer authorized to carry and use a firearm must be certified as currently qualified to do so by the Rangemaster, under the following conditions:

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- a. The minimum qualifying score for each type of firearm shall be established by the Rangemaster and approved by the Chief Probation Officer.
- b. Officers shall comply with the Rangemaster's directions and policies.
- c. The Rangemaster as approved by the Chief Probation Officer shall administer a firearm qualification program that ensures competency among all officers authorized to carry firearms.
- d. Each officer authorized to carry a firearm on duty shall qualify quarterly.
- e. Any officer who fails to qualify shall have his or her authorization to carry a firearm suspended. This suspension shall remain in effect until the individual receives additional training and qualifies. Continued failure to qualify will result in revocation of the authorization to carry a firearm. A person who fails to qualify may attempt to re-qualify no more than three (3) times in one day, time permitting.
- f. Officers must qualify with their Department issued firearm and/or personally-owned approved firearm. Officers not qualified with a particular firearm are not authorized to carry that firearm until they become qualified with it.
- g. Qualification shall be during normal working hours. Request for qualification outside of regular working hours may be approved by the Chief Probation Officer or designee and scheduled by the Rangemaster.
- h. The Training Coordinator or Rangemaster shall prepare and submit a quarterly firearms qualification report to the Chief Probation Officer.
- i. Any officer may, with the Chief Probation Officer's approval, be authorized additional on-duty hours for practice to improve proficiency in the use of a firearm. Arrangements will be made for additional firearms practice under the supervision of the Rangemaster.
- j. For the sake of transparency, Rangemasters shall qualify quarterly along with armed officers during scheduled Department qualification, under the same conditions, and under the supervision of another Rangemaster. Documentation of each qualification by Rangemasters shall be submitted to STC, the Chief Probation Officer, as well as a separate training file monitored and stored by the Department Training Coordinator;

#### Special Note

Any officer in good standing, who has been transferred from a traditional "armed" assignment to a "non-armed" assignment may elect to continue his or her armed status. Although they will not continue to possess a Department-issued weapon, they will qualify under the supervision of a designated Rangemaster. During scheduled qualifications, a Department issued weapon will be provided. It is the responsibility of those staff electing to maintain their armed status to qualify quarterly with the same standards and expectations of staff in armed assignments.

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The Rangemaster shall keep accurate records of quarterly qualifications, repairs, maintenance, training or as directed by the Chief Probation Officer. In addition to regular qualification schedules, the Rangemaster shall be responsible for providing all armed personnel with annual practical training designed to simulate field situations. At least annually, all officers carrying a firearm will receive training on the Department Use of Force policy and demonstrate their knowledge and understanding.

### 310.6.1 FAILED FIREARM QUALIFICATION

If an officer fails to pass the firearms range qualification, the following shall occur on the scheduled qualification day.

#### First Failed Attempt to Qualify:

- The officer will meet with a Rangemaster to review fundamentals of shooting (e.g. hand grip, sight alignment, sear re-set, smooth trigger pull, etc.).
- The officer will NOT be allowed to fire any live rounds in keeping with the "cold shoot" Department standard.

#### Second Failed Attempt to Qualify:

- The officer will meet with a Rangemaster to review fundamentals of shooting (e.g. hand grip, sight alignment, sear re-set, smooth trigger pull, etc.).
- The Rangemaster will point out any deficiencies that were observed during the first remediation, and allow the officer to ask questions to receive additional feedback or guidance if needed.
- The officer will NOT be allowed to fire any live rounds in keeping with the "cold shoot" Department standard.

#### Third Failed Attempt to Qualify:

- The officer's duty weapon and all ammunition and magazines shall be taken by a Rangemaster while at the range.
- The Rangemaster will notify the Officer's Supervisor or designee immediately.
- The Rangemaster shall document the third failed attempt in the Department's Firearms Training Record.
- The Firearms Training Record form shall be submitted to the Chief Probation Officer for review.

#### Three (3) Failed Qualifications Within any Twelve (12) Month Period:

- If an officer fails three (3) qualifications within any twelve (12) month period (the three qualification failures do not have to be sequential), a written recommendation to remove the officer from an armed assignment by the Rangemaster shall be forwarded to the Chief Probation Officer.

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#### 310.6.2 TRAINING AND OTHER REQUIREMENTS

Officers must satisfactorily complete all training and qualification pursuant to this policy prior to being authorized to carry a firearm while on duty. Required training includes:

- a. Successful completion of firearm training pursuant to Penal Code section 832;
- b. Successful completion of Probation Officer or Juvenile Institutions CORE training;
- c. Successful completion of an assigned psychological assessment;
- d. Successful completion of Arrest, Search and Seizure pursuant to Penal Code section 832;
- e. Successful completion of a probationary period as a Deputy Probation Officer I or Detention Officer I;
- f. Cardiopulmonary Resuscitation and First Aid certification;
- g. A review of the Department's policies concerning the carrying of firearms by officers;
- h. Ethical and moral considerations of the use of firearms and deadly physical force; and
- i. Chemical agents, Force and Weaponry, Ethics, Firearm Policy, and any other Departmental approved training related to firearm safety.

Armed officers may also be required to be able to provide a practical demonstration of at least the following:

- a. Firearm safety.
- b. Shooting proficiency during scenario-based training.
- c. Weapon retention.
- d. All less than lethal self-defense options for which the officer is certified.
- e. The care and cleaning of an authorized firearm.
- f. Weaponless Defense Training/Management of Assaultive Behavior.

#### 310.6.3 HOLSTERS

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

### **310.7 MAINTENANCE AND REPAIR**

Firearms carried on duty shall be maintained in a clean, serviceable condition.

#### 310.7.1 REPAIR OR MODIFICATIONS OF DUTY WEAPONS

The Lead Rangemaster or designee shall be the only person authorized to repair or modify any Department owned weapon. All repairs or modifications of Department issued weapons not performed by the Rangemaster must be approved in advance by the Rangemaster and

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accomplished by a Department approved gunsmith. Modifications to personally-owned and approved use firearms must be authorized in advance by the Rangemaster.

#### **310.8 FLYING WHILE ARMED**

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

- (a) Officers must carry their Department identification card which must contain a full-face picture, the officers signature and the signature of the Chief Probation Officer or the official seal of the Department and must present this identification to airline officials when requested. The officer should also carry the standard photo identification needed for passenger screening by airline and TSA officials (e.g., driver's license, passport).
- (b) The Yolo County Probation Department must submit a National Law Enforcement Telecommunications System (NLETS) message prior to the officer's travel. If approved, TSA will send the Yolo County Probation Department an NLETS message containing a unique alphanumeric identifier. The officer must present the message to airport personnel as authorization to travel while armed on the day of travel.
- (c) Officers must have completed the mandated TSA security training covering officers flying while armed. The training shall be given by the Department appointed instructor.
- (d) It is the officer's responsibility to notify the air carrier in advance of the intended armed travel. This notification can be accomplished by early check-in at the carrier's check-in counter.
- (e) Discretion must be used to avoid alarming passengers or crew by displaying a firearm. The officer must keep the firearm concealed on his or her person at all times.
- (f) When transporting an in-custody person, officers should not surrender their firearm but should try to resolve any problems through the flight captain, ground security manager or other management representative of the air carrier.
- (g) Officers shall not consume alcoholic beverages while aboard an aircraft, or within eight hours prior to boarding an aircraft.
- (h) The only time an officer shall fly armed is when transporting an in custody person. On all other occasions the officer will secure his or her firearm and duty ammunition in a Department lock box which will be secured and checked in with the airline. At no time shall an officer fly with their Department issued firearm unless the officers is doing so in an official approved Department capacity.

#### **310.9 CARRYING FIREARMS OUT OF STATE**

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

- (a) The officer shall carry his or her Department identification card whenever carrying such weapon.

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

Officers are cautioned that individual states may enact local regulations that permit private persons or entities to prohibit or restrict the possession of concealed firearms on their property, or that prohibit or restrict the possession of firearms on any state or local government property, installation, building, base or park. Federal authority may not shield an officer from arrest and prosecution in such locally restricted areas.

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

## Body Armor

### 311.1 PURPOSE AND SCOPE

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

### 311.2 USE OF BODY ARMOR

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

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

Employees authorized by the Department to carry a firearm while on duty shall wear Department-issued or Department-approved body armor while performing any planned or scheduled field work.

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

### 311.3 EXCEPTIONS

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

- (a) While in the office.
- (b) When attending Court hearings.
- (c) When off duty.
- (d) With prior Supervisor approval.

Other exceptions to this policy are to be approved by the Chief Probation Officer or designee, on a case-by-case basis.

## Search and Seizure

### 318.1 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 Yolo County Probation Department personnel to consider when dealing with search and seizure issues.

### 318.2 POLICY

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

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

### 318.3 SEARCHES

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

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

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

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

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

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

### **318.4 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) Officers of this Department will conduct searches with dignity and courtesy.
- (b) Officers should explain to the person being searched the reason for the search and how the search will be conducted.
- (c) Searches should be carried out with due regard and respect for private property interests and in a manner that minimizes damage. Property should be left in a condition as close as reasonably possible to its pre-search condition.
- (d) In order to minimize the need for forcible entry, an attempt should be made to obtain keys, combinations or access codes when a search of locked property is anticipated.
- (e) When the person to be searched is of the opposite sex as the officer, a reasonable effort should be made to summon an officer to conduct the search who is of the same sex as the subject. When it is not practicable to summon an officer of the same sex as the subject, the following guidelines should be followed:
  1. Another officer or a Supervisor should witness the search.

### **318.5 DOCUMENTATION**

Officers are responsible for documenting searches that result in a subsequent arrest, detention or warrant further action 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 the 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 and
- If the subject searched is of the opposite sex, any efforts to summon an officer of the same sex as the subject to conduct the search or the identity of any witness of the search.

A property and evidence report shall be completed every time officers seize evidence or property from a residence or person.

## *Search and Seizure*

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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.

### **318.6 PROBATION SEARCHES**

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

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

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

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

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

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

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

## *Search and Seizure*

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

### 318.6.1 MULTI-AGENCY SEARCHES

Multi-agency searches initiated by the Probation Department shall be conducted as follows:

- (a) A Unit Supervisor or his or her designee shall be present as Officer in Charge (OIC) if the multi-agency search is being directed by this Department.
- (b) Each team will have a designated probation officer leader who will have final authority as to how the search will be conducted and shall keep the Officer in Charge advised of any unusual circumstances including those issues that may generate a citizen complaint.
- (c) A search plan will be prepared for each planned individual search.
- (d) A probation case agent will be assigned for each planned individual search. The assigned officer of the probationer being searched, shall prepare the necessary reports, collect evidence and forward copies to the appropriate Supervisor and the case file.

## Forced Entry

### 319.1 POLICY

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

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

#### 319.1.1 KNOCK AND NOTICE

Before forced entry can be accomplished, Penal Code section 844 requires that the sworn peace officer must knock, demand entry, and explain the officer's purpose before entering the residence by force. This requirement can be waived if knocking and announcing will increase the danger of the risk of evidence being destroyed.

Officers must obtain prior approval from the Unit Supervisor if the officer anticipates the need to force entry. Other law enforcement agencies within the jurisdiction of the search may be asked to assist Department staff.

## Evidence Collection and Chain of Custody

### 321.1 PURPOSE AND SCOPE

The collection, preservation and chain of custody of evidence by an officer may be a crucial factor in determining the outcome of a case. This policy also 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 identifies those persons authorized to remove and/or destroy property.

- (a) Upon collecting evidence relating to a violation of probation (e.g., gang paraphernalia, gang clothing, gang indicia, knife, marijuana paraphernalia, and any other routine contraband) or a new law violation, the officer shall complete a receipt for property and a chain of custody form and provide a copy to the probationer or persons residing in the home.
- (b) Only property related to a violation of probation may be seized. Officers shall not seize property to hold a violation of probation in abeyance.

### 321.2 EVIDENCE COLLECTION AND STORAGE

The officer shall place the evidence in an evidence bag and relinquish it as soon as possible to a designated evidence collection staff member. If a staff member is not available to receive the seized property, the officer shall place the property in a short-term evidence locker and notify the designated staff member of the location and number of the locker, along with a description of the seized property. The designated staff member shall retrieve the seized property as soon as practicable and indicate on the chain of custody form that he or she received the evidence and placed it in a designated long-term evidence room.

The original chain of custody form shall be placed and maintained in the evidence room. Copies of the chain of custody form shall be distributed as follows:

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

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

#### 321.2.1 DISPOSITION OF EVIDENCE

The designated staff member responsible for security of the evidence room shall keep a log of all collected evidence stored in the evidence room under his or her control as well as the outcome of each case. The evidence shall be destroyed or otherwise disposed of pursuant to Court order. The Chief Probation Officer may authorize the retention of the evidence for training purposes. Any seized contraband shall not be otherwise possessed and/or displayed.

## Adult Abuse

### 322.1 PURPOSE AND SCOPE

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

### 322.2 DEFINITIONS

**Adult Abuse** - Any offense or attempted offense involving violence or neglect of adults over the age of 65 or any offense or attempted offense involving a dependent adult committed by a caregiver. This also includes any other act that would mandate notification to a social service/licensing agency or law enforcement agency related to the abuse of an adult. <sup>1</sup>

**Dependent Adult** - Any person between 18 and 64 years of age residing in this state, who has physical or mental limitations that restrict his or her ability to carry out normal activities or to protect his or her rights including, but not limited to, persons who have physical or developmental disabilities or whose physical or mental abilities have diminished because of age. This includes any person between 18 and 64 years of age who is admitted as an inpatient to a 24-hour health facility, as defined in state law. <sup>2</sup>

<sup>1</sup> Welfare. & Institutions Code §§ 15610.23, 15610.27

<sup>2</sup>Health & Safety Code §§ 1250. 1250.2 1250.3

### 322.3 MANDATORY NOTIFICATION

Any employee who has observed or has knowledge of an incident that reasonably appears to be adult abuse, is told by an elder or dependent adult that he or she has experienced abuse or who reasonably suspects abuse, shall make a report to the County Adult Protective Services agency as soon as practicable in the manner required by Welfare and Institutions Code section 15630.

Any Department employee who within the scope of his or her employment, has observed or has knowledge of an incident that reasonably appears to be physical abuse, abandonment, abduction, isolation, financial abuse, or neglect, is told by an elder or dependent adult that he or she has experienced behavior, including an act or omission, constituting physical abuse, abandonment, abduction, isolation, financial abuse, or neglect, or reasonably suspects such abuse, shall report the known or suspected instance of abuse by telephone or through a confidential Internet reporting tool, immediately or as soon as practicably possible. If reported by telephone, a written report shall be sent, or an Internet report shall be made through the confidential Internet reporting tool within two working days.

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### *Adult Abuse*

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For purposes of notification, abuse is physical abuse, abandonment, abduction, isolation, financial abuse or neglect. Physical abuse includes any assault or sex crime. Financial abuse includes taking personal or real property by undue influence or intent to defraud. Notification is also made in cases of abandonment, abduction, isolation and neglect.

Notification also should be made to the following agencies if applicable and as soon as practicable as otherwise provided by Welfare and Institutions Code section 15630:

1. State Department of Public Health
2. State Department of Social Services
3. Bureau of Medi-Cal Fraud and Elder Abuse
4. California Department of Aging
5. State Department of State Hospitals
6. State Department of Developmental Services
7. Yolo County District Attorney's Office
8. Local Law Enforcement Agency

Failure to make a report within two working days or as provided is a misdemeanor.

The Unit Supervisor is responsible for ensuring that proper notifications have occurred to the District Attorney's Office and any other regulatory agency that may be applicable based upon where the abuse took place.

### **322.4 RECORDS BUREAU RESPONSIBILITIES**

The Records Section is responsible for:

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

### **322.5 JURISDICTION**

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

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

## *Adult Abuse*

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### **322.6 RELEVANT STATUTES**

#### **Penal Code § 368 (c)**

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

#### **Penal Code § 368 (f)**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) Failure to prevent malnutrition or dehydration.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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## Discriminatory Harassment

### 324.1 PURPOSE AND SCOPE

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

### 324.2 POLICY

The Yolo County Probation Department is an equal opportunity employer and is committed to creating and maintaining a work environment that is free of discrimination and harassment, including sexual harassment and retaliation. The Department will not tolerate discrimination against employees in all terms and conditions of employment, including, but not limited to, hiring, placement, promotion, disciplinary action, layoff, recall, transfer, leave of absence, compensation, and training. The Department will take preventive and corrective action to address any behavior that violates this policy or the rights it is designed to protect.

Conduct that violates this policy may not violate state or federal law but still could subject an employee to discipline. This policy does not replace the "Equal Employment Opportunity and Harassment" policy in the Yolo County's Administrative Policies and Procedures Manual.

### 324.3 DISCRIMINATION PROHIBITED

#### 324.3.1 DISCRIMINATION

The Department prohibits all forms of discrimination, including any employment-related action by a member that adversely affects an applicant or member and is based on the 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 other classifications 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, crude and offensive statements or remarks; making slurs or off-color jokes, stereotyping; engaging in threatening acts; making indecent gestures, pictures, cartoons, posters or material; making inappropriate physical contact; or using written material or Department equipment and/or systems to transmit or receive offensive material, statements or pictures. Such conduct is contrary to Department policy and to a work environment that is free of discrimination.

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### 324.3.2 RETALIATION

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

### 324.4 RESPONSIBILITIES

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

Employees must promptly report any discriminatory, retaliatory or harassing conduct or known violations of this policy to a Supervisor. Any employee who is not comfortable with reporting violations of this policy to his or her immediate Supervisor may bypass the chain of command and make the report to a higher ranking supervisor or manager. Complaints may also be filed with the Chief Probation Officer or County Human Resources.

Any employee who believes, in good faith, that he or she has been discriminated against, harassed, subjected to retaliation, or who has observed harassment or discrimination, must report such conduct in accordance with the procedures set forth in the "Equal Employment Opportunity and Harassment" policy in Yolo County's Administrative Policies and Procedures Manual.

### 324.5 TRAINING

All new employees shall be provided with a copy of this policy as part of their orientation. The policy shall be reviewed with each new employee. The employee shall certify by signing the prescribed form that he or she has been advised of this policy, is aware of and understands its contents and agrees to abide by its provisions during his or her term of employment.

#### 324.5.1 STATE-REQUIRED TRAINING

The Training Officer 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 (Govt. Code § 12950.1; 2 CCR 11024):

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

## *Discriminatory Harassment*

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### **324.5.2 TRAINING RECORDS**

The Training Officer 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.)

### **324.6 REQUIRED POSTERS**

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

### **324.7 WORKING CONDITIONS**

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

## Child Abuse

### 326.1 PURPOSE AND SCOPE

This policy is to provide guidelines for the investigation of suspected child abuse. This policy also addresses when Department employees are required to notify Yolo County Child Welfare Services (CWS) of suspected child abuse.

### 326.2 POLICY

The Department will accept all reported incidents of alleged criminal child abuse and ensure CWS is notified within 36 hours of discovery as required by law.

### 326.3 MANDATORY NOTIFICATION

Yolo County Child Welfare Services shall be notified when (Pen. 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.

Notification should occur as follows:

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

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

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.

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; neglect; the willful harming or injuring of a child or the endangering of the person or health of a child; and unlawful corporal punishment or injury . 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 or her employment as a peace officer.

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### STATUTORY REFERENCES

See Penal Code sections 11164-11174.3, the Child Abuse and Neglect Reporting Act, for specific statutory references to the reporting requirements listed herein.

## Transportation of Probationers and Arrestees

### 327.1 POLICY

As part of the field supervision process and detention services, the Yolo County Probation Department has the responsibility for transporting probationers who have been taken into custody or who are required to appear in Court. Additionally, at times, staff are tasked with transporting probationers to medical appointments, placement facilities, drug rehabilitation appointments and to other probation related destinations. Department employees must carefully plan the circumstances of the transportation including an assessment of potential problems when dealing with unstable or dangerous probationers, securing an appropriate county vehicle and acquiring assistance if needed. Officers from the Juvenile Detention Facility Transportation Unit will comply with established policies and procedures as set by the Superintendent of the Juvenile Detention Facility.

- (a) Persons under arrest who are being transported while in custody shall be handcuffed and searched for weapons and contraband per Departmental policy. Prior to placing the arrestee into the County vehicle, employees shall search the back seat area thoroughly. Once the vehicle is searched, the arrestee/probationer shall be placed in the back seat of the vehicle with the seat belt fastened on the arrestee/probationer.
- (b) Whenever possible, field officers should secure a caged car for transportation. If one is not available, a non-caged car may be used; however, another Department employee must sit in the back seat next to the arrestee/ probationer. If a radio is available, local law enforcement dispatch must be contacted and apprised of the arrest and the transport destination. When transporting a probationer, employees must always call in to Dispatch and relay their starting point, beginning and ending mileage and ending location.
- (c) Staff are **prohibited** from using their own personal vehicles to transport clients.

### 327.2 OUT OF CUSTODY JUVENILE TRANSPORTS

At times, Department Officers are required to transport out of custody juvenile probationers to and from programs (ie. the Yolo County Construction Program (YCCP) or other similar programs). The following procedures are to be followed when transporting juveniles to and from such programs.

- (a) Obtain the appropriate vehicle to be used for the transport—multiple juveniles being transported at the same time may require a larger vehicle such as a van.
- (b) Log on with Dispatch advising of the destination where you will be driving to and picking up the juvenile ( home residence).
- (c) Upon arrival at the youth's residence, advise Dispatch that you have arrived at your destination.
- (d) Contact the youth at his or her residence.

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### *Transportation of Probationers and Arrestees*

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- (e) Ensure that any large items to be transported with the youth, such as back packs and duffel bags are secured in the trunk of the vehicle. In the case of a van, ensure the items are placed in a location in the van which can not be accessed by the youth.
- (f) At any time prior to the transport, for officer safety reasons, an officer may pat search the juvenile to ensure they are not in possession of any weapons. In the case of a male officer transporting a female juvenile, a female officer should be summoned to pat search the female juvenile.
- (g) Ensure that the juvenile is wearing a seat belt.
- (h) Inform Dispatch that you will be transporting a juvenile from your current location (home residence) to the program's address or in the case of multiple juveniles in the same transport, to the location of the next juvenile to be picked up. Provide Dispatch with your starting mileage.
- (i) In the case of multiple juveniles in the same transport, follow the above procedure until all juveniles to be picked up are in the transport vehicle.
- (j) Contact Dispatch and advise them of the program's address where you will be transporting the juveniles.
- (k) Upon arrival at the program, inform Dispatch that you have arrived at your destination and your ending mileage.
- (l) Ensure that all large items previously placed in the trunk of the vehicle or in the case of a van, out of juvenile's access, are returned to the juvenile(s).
- (m) Contact Dispatch and advise them you will be returning to the Probation Department. Upon arrival at the Probation Department advise Dispatch of your location.
- (n) When transporting juveniles from a program back to their home residence follow the aforementioned procedure, informing Dispatch when you leave the Probation Department and at each stop including your corresponding mileage.
- (o) Juveniles are to be returned to their home residence unless pre-approval is obtained from a Supervisor to leave the juvenile at another location.

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## Probationers as Informants

### 329.1 POLICY

The Yolo County Probation Department will cooperate with the District Attorney's Office and other local law enforcement agencies regarding the use of probationers as confidential informants under the following guidelines:

1. A confidential informant is any person who knowingly provides information in confidence to law enforcement related to another's criminal activity and who, as a general rule expects some form of benefit or advantage for himself, herself, or another person in return. The identity of the informant is kept confidential within the law enforcement agency and in crime reports, warrant applications, and judicial proceedings.
2. A probationer who requests or is requested to act as a confidential informant will be screened for suitability by the Chief Probation Officer and/or designee. The law enforcement agency that intends to use the probationer as an informant should provide the Probation Department the following information: **1) nature of probationer's involvement, 2) duration of the activity or operation, 3) out of area travel requirements if any.**
3. If a law enforcement agency uses a probationer as a confidential informant, all documents pertaining to the probationer's role as an informant will be kept in a separate, locked, confidential file and retained under the control of the Supervisor of the appropriate unit.
4. Under no circumstances shall Department staff make informal agreements with probationers for their use as informants in order to hold in abeyance a violation of probation.
5. Should a probationer who is acting as a confidential informant commit a violation of probation, the Unit Supervisor will determine the appropriate disposition and action to take.
6. Juveniles are not to be used as informants under any circumstances.

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## Sensitive/High-Profile Cases

### 331.1 POLICY

Any cases involving celebrities, well-known members of the community, Departmental employees or their families, or other cases which have attracted special public attention are to be reviewed for classification as a "sensitive case". Yolo County Probation Department employees must immediately report to their Supervisor(s) any case that appears to be a sensitive case, and the Supervisor must notify their Division Manager for Probation Services employees or Superintendent of the Juvenile Detention Facility for Juvenile Detention Facility employees of such a case. The Chief Probation Officer is to be informed of any potentially sensitive case as soon as practicable by the Division Manager or Superintendent of the Juvenile Detention Facility.

The Department shall provide services in sensitive cases consistent with the treatment of other cases. These cases shall not receive any special treatment or consideration with regard to casework decisions made by the Department regarding any aspect of the case.

If necessary, to avoid claims of bias or ethics violations, the Chief Probation Officer or designee may determine the preparation of a juvenile disposition report or an adult presentence investigation report in a sensitive case should be transferred to another county for completion. At the direction of the Chief Probation Officer or designee, arrangements for transfer are to be made by the assigned Unit Supervisor.

In cases where a Department employee is a witness to a crime, they shall notify their Supervisor as soon as practicable. The Supervisor shall notify the Chief Probation Officer of such a case through the chain of command. The Chief Probation Officer or designee shall determine if the related case will be transferred to another county if the matter is referred to the Department by the Court for any reason.

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## Standards of Conduct

### 336.1 PURPOSE AND SCOPE

This policy establishes standards of conduct that are consistent with the values and mission of the Yolo County Probation Department and are expected of all sworn and non-sworn employees. The standards contained in this policy are not intended to be an exhaustive list of requirements and prohibitions. However, they do identify many of the important matters concerning conduct. In addition to the provisions of this policy, employees are subject to all other provisions contained in this Manual, as well as the operative memorandum of understanding, County Code section 2-6-47 and any additional guidance on conduct that may be disseminated by this Department or an employee's Supervisors. A violation of any portion of this policy may only serve as the basis for internal disciplinary and/or administrative action, up to and including termination.

### 336.2 DISCIPLINE POLICY

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

An employee's off-duty conduct shall be governed by this policy to the extent that it is related to acts that may materially affect or arise from the employee's ability to perform official duties or to the extent that it may be indicative of unfitness for his or her position.

### 336.3 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. This policy is not intended to cover every possible type of misconduct.

### 336.4 CAUSES FOR DISCIPLINE

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

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#### 336.4.1 LAWS, RULES AND ORDERS

- (a) Violation of, or ordering or instructing a subordinate to violate any County or Department policy, procedure, rule, order, directive, requirement or failure to follow instructions contained in Department or County manuals.
- (b) Disobedience of any legal directive or order issued by any Department Supervisor, Manager or their designee.
- (c) Violation of federal, state, local or administrative laws, rules or regulations. Employees shall report to their immediate Supervisor any off-duty arrest/detention or incident or allegation of criminal conduct, no later than the following workday. The Supervisor shall notify the Chief Probation Officer via the Chain of Command. Employees shall also report to their immediate Supervisor any official contact with law enforcement whether on or off-duty, that could reasonably be expected to reflect poorly on the Department but that may not result in any formal action against the employee by the involved law enforcement agency. The Supervisor shall immediately notify the Chief Probation Officer via the Chain of Command.

#### 336.4.2 ETHICS

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

#### 336.4.3 DISCRIMINATION, OPPRESSION OR FAVORITISM

Discriminating against, oppressing or providing favoritism to 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.

#### 336.4.4 RELATIONSHIPS

- (a) Unwelcome solicitation of a personal or sexual relationship while on--duty or through the use of one's official capacity.

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

#### 336.4.5 ATTENDANCE

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

#### 336.4.6 UNAUTHORIZED ACCESS, DISCLOSURE OR USE

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

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#### 336.4.7 EFFICIENCY

- (a) Neglect of duty.
- (b) Unsatisfactory work performance including, but not limited to, failure, incompetence, inefficiency or delay in performing and/or carrying out proper orders, work assignments or the instructions of Supervisors without a reasonable and bona fide excuse.
- (c) Concealing, attempting to conceal, removing or destroying defective or incompetent work.
- (d) Unauthorized sleeping during on-duty time or assignments.
- (e) Failure to notify the Department Human Resources Officer or designee within 10 days of any change in residence address, emergency contact telephone numbers or marital status.

#### 336.4.8 PERFORMANCE

- (a) Failure to disclose or misrepresenting material facts, or making any false or misleading statement on any application, examination form, or other official document, report or form, or during the course of any work--related investigation.
- (b) The falsification of any Department records, Department related records, schedules and/or public record or making misleading entries or statements with the intent to deceive. The willful and unauthorized removal, alteration, destruction and/or mutilation of any Department record or public record.
- (c) Failure to participate in, or giving false or misleading statements, or misrepresenting or omitting material information to a Supervisor or other person in a position of authority, in connection with any investigation or in the reporting of any Department -related business.
- (d) Being untruthful or knowingly making false, misleading or malicious statements that are reasonably calculated to harm the reputation, authority or official standing of this Department or its members.
- (e) Disparaging remarks or conduct concerning duly constituted authority to the extent that such conduct disrupts the efficiency of this Department or subverts the good order, efficiency and discipline of this Department or that would tend to discredit any of its members.
- (f) Unlawful gambling or unlawful betting at any time or any place. Legal gambling or betting under any of the following conditions:
  - 1. While on Department premises.
  - 2. At any work site, while on--duty or while in uniform, or while using any Department equipment or system.
  - 3. Gambling activity undertaken as part of an officer official duties and with the express knowledge and permission of a direct Supervisor is exempt from this prohibition.
- (g) Improper political activity including:

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1. Unauthorized attendance while on--duty at official legislative or political sessions.
  2. Solicitations, speeches or distribution of campaign literature for or against any political candidate or position while on--duty or, on Department property except as expressly authorized by County policy, the memorandum of understanding, or the Chief Probation Officer.
- (h) Engaging in political activities during assigned working hours except as expressly authorized by County policy, the memorandum of understanding, or the Chief Probation Officer.
- (i) Any act on- or off- duty that brings discredit to this Department.

#### 336.4.9 CONDUCT

- (a) Failure of any employee to promptly and fully report activities on his or her part or the part of any other employee where such activities resulted in contact with any other law enforcement agency or that may result in criminal prosecution or discipline under this policy.
- (b) Unreasonable and unwarranted force to a person encountered or a person under arrest.
- (c) Exceeding lawful peace officer powers by unreasonable, unlawful or excessive conduct.
- (d) Unauthorized or unlawful fighting, threatening or attempting to inflict unlawful bodily harm on another.
- (e) Engaging in horseplay that reasonably could result in injury or property damage.
- (f) Discourteous, disrespectful or discriminatory treatment of any member of the public or any employee of this Department or the County.
- (g) Unreasonable and unwarranted use of obscene, indecent, profane or derogatory language while on--duty or in uniform.
- (h) Criminal, dishonest, or disgraceful conduct, whether on or off-duty, that adversely affects the employees relationship with this Department.
- (i) Unauthorized possession of, loss of, or damage to Department property or the property of others, or endangering said property through carelessness or maliciousness.
- (j) Attempted or actual theft of Department property; misappropriation or misuse of public funds, property, personnel or the services or property of others; unauthorized removal or possession of Department property or the property of another person.
- (k) Activity that is incompatible with an employees conditions of employment or appointment as established by law or that violates a provision of any memorandum of understanding or contract, which includes fraud in securing the appointment or hire.
- (l) Any other on- or off--duty conduct which any employee knows or reasonably should know is unbecoming an employee of this Department, is contrary to good order,

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efficiency or morale, or tends to reflect unfavorably upon this Department or its employees.

### 336.4.10 SAFETY

- (a) Failure to observe or violating Department safety standards or safe working practices.
- (b) Failure to maintain current licenses or certifications required for the assignment or position (e.g., driver license, first aid).
- (c) Unsafe handling of a firearm which includes loading or unloading firearms in an unsafe manner either on or off-duty.
- (d) Unsafe handling of weapons other than firearms either on or off-duty.
- (e) Carrying, while on-duty, any firearm that is not authorized by the Chief Probation Officer or designee.
- (f) Unsafe or improper driving habits or actions in the course of employment or appointment.
- (g) Any personal action contributing to a preventable traffic collision.
- (h) Concealing or knowingly failing to report any on-the-job or work-related accident or injury as soon as practicable but within 24 hours.

### 336.4.11 INTOXICANTS

- (a) 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.
- (b) Possession or use of alcohol at any work site or while on-duty, except as authorized in the performance of an official assignment.
- (c) Unauthorized possession of any illegal drug or non-prescribed medication while on duty.

## **336.5 SUPERVISOR AND MANAGER RESPONSIBILITIES**

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

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

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(e) Failure of a Supervisor to take immediate and appropriate action to ensure that employees adhere to the policies and procedures of the Department and the actions of all personnel to comply with all laws.

### **336.6 UNLAWFUL OR CONFLICTING ORDERS**

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

No 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.

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, Department policy or other directive shall respectfully inform the issuing Supervisor of the conflict. The issuing Supervisor is responsible for either resolving the conflict or clarifying that the lawful order is intended to countermand the previous lawful order or directive, in which case the 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.

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## Information Technology Use

### 338.1 PURPOSE AND SCOPE

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

#### 338.1.1 DEFINITIONS

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

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

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

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

**Social Media** - Electronic service or account, or electronic content, including but not limited to videos, still photographs, blogs, video blogs, podcasts, instant and text messages, email, online services or accounts, or Internet Web site profiles or locations for the purpose of social networking.

### 338.2 POLICY

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

### 338.3 PRIVACY EXPECTATION

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

The Department reserves the right to access, audit and disclose, for whatever reason, any message, including attachments, and any information accessed, transmitted, received or reviewed over any technology that is issued or maintained by the Department, including the Department email system, computer system and/or any information placed into storage on any Department system or device. This includes records of all keystrokes or Web-browsing history made using any Department computer system, network or hardware. The fact access to a database, service or

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website requires a username or password will not create an expectation of privacy if it is accessed through Department computers, hardware, electronic devices or networks.

However, the Department may not require an employee to disclose a personal username or password or open a personal social media website, except when access is reasonably believed to be relevant to the investigation of allegations of employee misconduct or employee violation of applicable laws and regulations. (Lab. Code § 980.)

### **338.4 RESTRICTED USE**

Employees shall not access computers, devices, software or systems for which they have not received prior authorization or the required training. Employees shall immediately report unauthorized access or use of computers, devices, software or systems by another employee to their Supervisor..

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

#### **338.4.1 SOFTWARE**

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

To reduce the risk of a computer virus or malicious software, employees shall not install any unlicensed or unauthorized software on any Department computer. Employees shall not install personal copies of any software onto any Department hardware.

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

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

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

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

#### **338.4.2 HARDWARE**

Access to technology resources provided by or through the Department shall be strictly limited to Department-related activities. Data stored on or available through Department computer systems shall only be accessed by authorized employees who are engaged in an active investigation

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or assisting in an active investigation, or who otherwise have a legitimate law enforcement or Department-related purpose to access such data. Any exceptions to this policy must be approved by a Supervisor.

### **338.5 PROTECTION OF AGENCY SYSTEMS AND FILES**

- a. All employees have a duty to protect the computer system and related systems and devices from physical and environmental damage and are responsible for the correct use, operation, care and maintenance of the computer system.
- b. Employees shall ensure Department computers and access terminals are not viewable by persons who are not authorized users.
- c. Computers and terminals should be secured, users logged off and password protections enabled whenever the user is not present.
- d. Access passwords, logon information and other individual security data, protocols and procedures are confidential information and are not to be shared.
- e. Password length, format, structure and content shall meet the prescribed standards required by the computer system or as directed by a Supervisor and shall be changed at intervals as directed by IT staff or a Supervisor.
- f. It is prohibited for an employee to allow an unauthorized user to access the computer system at any time or for any reason. Employees shall promptly report any unauthorized access to the computer system or suspected intrusion from outside sources (including the Internet) to a Supervisor.

### **338.6 INSPECTION OR REVIEW**

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

Reasons for inspection or review may include, but are not limited to, computer system malfunctions, problems or general computer system failure, a lawsuit against the Department involving one of its employees or an employee's duties, an alleged or suspected violation of any Department policy, a request for disclosure of data, or a need to perform or provide a service.

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

## Incident Reports

### 339.1 POLICY

Employees should complete an Incident Report on all events that pose a potential liability to the County or Department. Incident reports should be filled out by employees who have effected an arrest or, who have used any level of force in the scope of their duties, who are involved in incidents considered unusual, where they are a possible subject of litigation, or when they are involved in a situation where there is a focus from the media. Examples of incidents that would require an incident report are:

- A citizen stating he or she intends to pursue legal action against the Department.
- Arrests.
- Searches resulting in arrest, seized property, injury, or damage.
- Forced entry.
- Any use of force other than in training.
- Discharge of a firearm.
- When an officer points a firearm at any person. Note: An incident report is not required when "clearing a residence".
- Taser deployment/discharge.
- Potential exposure to communicable disease, BBP, or biohazard.
- Traffic accident.
- Rendering first aid to an injured person (employee, resident or probationer).
- Loss or damage to Department or personal property while on-duty.
- Incidents where there appears to be media attention.

Incident Reports shall be filed with the immediate Supervisor as soon as possible and unless there are unusual circumstances, no later than the end of the next work day following the incident. Any delay in filing the incident report due to unusual circumstances must be approved by a Supervisor.

The Supervisor shall make appropriate review, comment as needed and if appropriate, forward the report to his or her Supervisor within twenty-four (24) hours of the receipt of the incident report.

## Media Relations

### 342.1 PURPOSE AND SCOPE

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

### 342.2 RESPONSIBILITIES

The ultimate authority and responsibility for the release of information to the media shall remain with the Chief Probation Officer, however, in situations not warranting immediate notice to the Chief Probation Officer and in situations where the Chief Probation Officer has given prior approval, Managers, Supervisors or other designees of the Chief Probation Officer, may prepare and release information to the media in accordance with this policy and the applicable law.

#### 342.2.1 MEDIA REQUEST

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

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

### 342.3 MEDIA ACCESS

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

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

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

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

#### **342.4 SCOPE OF INFORMATION SUBJECT TO RELEASE**

At no time shall identifying information pertaining to a juvenile arrestee, victim or witness be released to the media without prior approval of the Yolo County Superior Court, another Court of competent jurisdiction, or federal Court.

Information concerning incidents involving certain sex crimes and other offenses set forth in Government Code section 6254(f) shall be restricted in accordance with applicable statutory provisions.

Identifying information concerning deceased individuals shall not be released to the media until notification of next of kin or otherwise cleared through the Coroner's Office.

##### **342.4.1 RESTRICTED INFORMATION**

It shall be the responsibility of the authorized employee dealing with media requests to ensure that restricted information is not inappropriately released to the media by this Department. When in doubt, authorized and available legal counsel should be consulted.

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## Subpoenas and Court Appearances

### 344.1 PURPOSE AND SCOPE

This policy establishes the guidelines for Department employees who must appear in court.

### 344.2 POLICY

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

### 344.3 FAILURE TO APPEAR

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

### 344.4 STANDBY

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

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

### 344.5 COURTROOM PROTOCOL

When appearing in court, employees shall:

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

#### 344.5.1 TESTIMONY

Before testifying, the subpoenaed employee shall review relevant reports and become familiar with the content in order to be prepared for court.

### 344.6 OVERTIME APPEARANCES

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

## Mutual Aid and Outside Agency Assistance

### 347.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance to officers regarding requests for assistance to or from another law enforcement agency.

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

#### 347.1.1 ASSISTING OUTSIDE AGENCIES

Generally, calls for assistance from other agencies are routed to the Chief Probation Officer and/or his or her designee for approval. When an authorized employee of an outside agency requests the assistance of this Department in taking a person into custody, available officers shall respond and assist in making a lawful arrest. If an officer receives a request in the field for assistance, that officer will assist, and will notify his or her Supervisor as soon as possible.

#### 347.1.2 REQUESTING ASSISTANCE FROM OUTSIDE AGENCIES

If assistance is needed from another agency, the employee requesting assistance shall first obtain Supervisor approval. Any overtime required in the course of providing mutual aid shall be approved by the Unit Supervisor or designee.

## Major Incident Notification

### 353.1 PURPOSE AND SCOPE

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

### 353.2 POLICY

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

### 353.3 MINIMUM CRITERIA FOR NOTIFICATION

. The following list of incident types is provided as a guide for notification and is not exclusive:

- Homicides
- Traffic accidents with fatalities
- Officer-involved shooting on or off- duty (see Officer-Involved Shootings and Deaths Policy for special notifications)
- Significant injury or death to employee on or off-duty
- Death of a Yolo County official
- Arrest of a Department employee or Yolo County official
- In-custody deaths

### 353.4 SUPERVISOR RESPONSIBILITY

The Supervisor is responsible for making the appropriate notifications. The Supervisor shall make reasonable attempts to obtain as much information on the incident as possible before notification. The Supervisor shall notify the Chief Probation Officer or other designated Management staff as soon as practicable. Notification should be made by calling any available contact numbers.

## Child and Dependent Adult Safety

### 375.1 PURPOSE AND SCOPE

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

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

### 375.2 POLICY

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

#### 375.2.1 REPORTING

For all arrests where children or dependent adults are present or living in the household, the reporting employee will include information about the individuals, including names, gender, age and how they were placed.

### 375.3 PROCEDURES DURING AN ARREST

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

- (a) Inquire about and confirm the location of any children or dependent adults.
- (b) Look for evidence of children and dependent adults. Officers should be mindful that some arrestees may conceal the fact that they have a dependent for fear the individual may be taken from them.
- (c) Consider questioning witnesses, neighbors, friends and relatives of the arrestee as to whether the person is responsible for a child or dependent adult. (Pen. Code §13517.7(b)(1).)

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

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

### 375.3.1 AFTER AN ARREST

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

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

- a. Allow the person reasonable time to arrange for the care of children and dependent adults with a responsible party, as appropriate.
  1. Officers should consider allowing the person to use his or her cell phone to facilitate arrangements through access to contact phone numbers, and to lessen the likelihood of call screening by the recipients due to calls from unknown sources. An officer does not need to obtain a warrant when assisting the arrested subject in locating contact numbers in the subject's cell phone if consent is voluntarily given by the subject to the officer for this purpose.
  2. Unless there is evidence to the contrary (e.g., signs of abuse, drug use, unsafe environment), officers should respect the parent or caregiver's judgment regarding arrangements for care. It is generally best if the child or dependent adult remains with relatives or family friends that he or she knows and trusts because familiarity with surroundings and consideration for comfort, emotional state and safety are important. However, officers are not to leave children or dependent adults with a person identified by a suspect as their choice of caregiver, if the identified caregiver has an outstanding warrant or a history of arrests and convictions related to abuse.
- b. Except when a court order exists limiting contact, the officer should attempt to locate and place children or dependent adults with the non-arrested parent, guardian or caregiver.
- c. Provide for the immediate supervision of children or dependent adults until an appropriate caregiver arrives.
- d. Notify Child Protective Services or the Division of Aging and Adult Services, if appropriate.
- e. Notify the Supervisor of the disposition of children or dependent adults.
- f. If children or dependent adults are at school or another known location outside the household at the time of arrest, the arresting officer should attempt to contact the school or other known location and inform the principal or appropriate responsible adult of the caregiver's arrest and of

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the arrangements being made for the care of the arrestee's dependent. The result of such actions should be documented in the associated report.

### 375.3.2 DURING THE BOOKING PROCESS

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

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

### 375.3.3 REPORTING

(a) For all arrests where children are present or living in the household, the reporting officer will document the following information:

1. Name
2. Sex
3. Age
4. Special needs (e.g., medical, mental health)
5. How, where and with whom or which agency the child was placed
6. Identities and contact information for other potential caregivers
7. Notifications made to other adults (e.g., schools, relatives)

(b) For all arrests where dependent adults are present or living in the household, the reporting officer will document the following information:

1. Name
2. Sex
3. Age
4. Whether he or she reasonably appears able to care for him or herself
5. Disposition or placement information if he or she is unable to care for him or herself

### 375.3.4 SUPPORT AND COUNSELING REFERRAL

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

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### **375.4 DEPENDENT WELFARE SERVICES**

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

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

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

### **375.5 TRAINING**

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

## Conducted Electrical Weapon (CEW)

### 383.1 PURPOSE AND POLICY

When properly applied in accordance with this policy, the Conducted Electrical Weapon (CEW), also referred to as a "TASER", is considered a "less than lethal" control device intended to control a violent, or potentially violent, individual without causing serious injury. It is anticipated the appropriate use of such a device will result in fewer serious injuries to probation peace officers and suspects.

Probation peace officers, defined as Deputy Probation Officers, Supervising Probation Officers and Transportation Officers, who have completed training approved by the Yolo County Probation Department ("Department") may be authorized to carry a CEW under the conditions described in this policy.

Probation peace officers shall only use the CEW and cartridges that have been issued by the Department. The device shall be carried as a part of a probation peace officer's equipment in an approved holster.

- (a) The TASER® International Model X26P is the only Department authorized CEW device. Only Department authorized CEWs will be carried or otherwise used by probation peace officers when involved in a situation requiring the exercise of police powers and authority.
- (b) When the CEW is carried as part of a probation peace officer's equipment, the CEW shall not be carried on the same side as the officer's duty weapon and shall be accessible to an off-side draw.
- (c) All CEWs shall be clearly and distinctly marked to differentiate them from the probation peace officer's duty weapon or any other device.
- (d) Probation peace officers shall carry a minimum of two (2) CEW cartridges on their person at all times while carrying a CEW.
- (e) Probation peace officers shall be responsible for ensuring that their CEW is properly maintained and in good working order at all times.
- (f) Probation peace officers shall never hold both a firearm and the CEW at the same time unless lethal force is justified.

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### **383.2 VERBAL AND VISUAL WARNINGS**

A verbal warning of the intended use of the CEW shall precede its application, unless it would otherwise endanger the safety of officers or when it is impractical due to exigent circumstances.

The purpose of the warning is to:

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

If, after a verbal warning, a subject continues to express an unwillingness to comply voluntarily with the probation peace officer's lawful orders and it appears both reasonable and practical under the circumstances, the probation peace officer may, but is not required to, display the electrical arc (provided there is not a cartridge loaded into the CEW) or laser in a further attempt to gain compliance prior to the application of the CEW. The aiming laser should never be intentionally directed into the eyes of another, as it may permanently impair his/her vision.

The fact a verbal or other warning was given or the reasons a warning was not given shall be documented by the officer deploying the CEW in any related reports.

### **383.3 DEFINITIONS**

The following terms and their definitions apply to the Conducted Electrical Weapon (CEW) policy:

- (a) Displayed - The CEW is withdrawn from the holster and visible to the subject.
- (b) Discharged - The CEW is withdrawn from the holster, cartridge removed from the CEW, and the electrical arcing is demonstrated to the subject in an attempt to gain compliance.
- (c) Used - The firing of the CEW air cartridge, whether or not the probes contact the subject's body or clothing, and/or the use of a "drive stun" to effect compliance.
- (d) Enforcement Situation - Any situation where a probation peace officer is taking enforcement action in the course and scope of his/her duties.
- (e) Accidental Discharge - The accidental firing of the CEW air cartridge whether or not the result of negligent handling.

### **383.4 USE OF THE CEW**

As with any law enforcement equipment, the CEW has limitations and restrictions requiring consideration before its use. The CEW should only be used when its operator can safely approach the subject within the operational range of the CEW. Although the CEW is generally effective in controlling or subduing most individuals, probation peace officers should be aware the device may

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not achieve the intended results and be prepared to use other options. The CEW shall not be used to torture, psychologically torment, elicit statements from, or inflict undue pain on any individual.

Authorized probation peace officers may use the CEW when the circumstances, known to the individual officer at the time, indicate that the application of the CEW is reasonably necessary to subdue or control:

- (a) A violent or physically resisting subject.
- (b) A potentially violent or physically resistive subject if:
  1. The subject has verbally or physically demonstrated an intention to resist; and
  2. The probation peace officer has given the subject a verbal warning of the intended use of the CEW (unless it would otherwise endanger the safety of officers or when it is impractical due to exigent circumstances), followed by a reasonable opportunity to comply voluntarily; and
  3. Other available options are reasonably likely to be ineffective or would present a greater danger to the officer or subject.

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

The use of the CEW device on the following categories of individuals generally should be avoided unless the totality of the circumstances indicates that other available options are reasonably likely to be ineffective or would present a greater danger to the probation peace officer, the subject, or others, and the probation peace officer reasonably believes the need to control the individual outweighs the risk of using the device. These individuals include:

1. Females who are known to be pregnant.
2. Elderly individuals or obvious juveniles.
3. Individuals who are handcuffed or otherwise restrained.
4. Individuals who are visibly frail, infirm or have low body mass.
5. Individuals who have been recently sprayed with a flammable chemical agent or who are otherwise in close proximity to any known combustible vapor or flammable material, including but not limited to, alcohol-based oleoresin capsicum (OC) spray.

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6. Individuals whose position or activity may result in significant collateral injury (e.g., falls from height, operation of a vehicle, location in or near water).

Since the application of the CEW in the “Drive Stun” mode (i.e., direct contact without probes) relies primarily on pain compliance and requires close proximity to the subject, the use of the Drive Stun mode generally should be limited to supplementing the probe-mode to complete the circuit or as a distraction technique to gain separation between probation peace officers and the subject, thereby giving officers time and distance to consider other force options and/or actions.

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

### 383.4.1 MULTIPLE APPLICATIONS OF THE DEVICE

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

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

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

### 383.4.2 REPORT OF USE

All CEW discharges shall be documented in the related arrest/crime report and on the CEW report form. Accidental discharges of a CEW cartridge will be documented on the CEW report form. Any report documenting the discharge of a CEW will include the CEW’s serial number, the cartridge serial number, and an explanation of the circumstances surrounding the discharge.

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The on-board CEW memory shall be downloaded through the dataport and saved with the related arrest/crime report. The used CEW cartridge and any AFIDS that are located shall be booked into evidence after use.

When practical, the probation peace officer planning to use the CEW shall make an announcement over the radio that the CEW is being deployed. The probation peace officer deploying the CEW shall ensure a CAD entry is made indicating the CEW was discharged or used, even if the incident does not require further documentation.

### 383.4.3 MEDICAL TREATMENT

Absent extenuating circumstances or unavailability, trained probation peace officers should remove CEW probes from a person's body. Used CEW probes shall be considered a sharp biohazard, similar to a used hypodermic needle. Universal precautions should be taken accordingly.

Persons against whom a CEW has been used who exhibit extreme agitation or violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond physical characteristics, imperviousness to pain, or who require a protracted physical encounter with multiple officers to bring under control, may be at an increased risk of sudden death and should be examined by qualified medical personnel as soon as practicable. Any individual exhibiting signs of distress after such an encounter shall be medically cleared prior to booking.

All persons who have been struck by the CEW probes or subjected to the electric discharge of the device shall be medically cleared prior to booking. Additionally, any individual in one or more of the following categories shall be examined as soon as practicable by paramedics or other qualified medical personnel:

- (a) Individuals suspected of being under the influence of controlled substances and/or alcohol.
- (b) Individuals who may be pregnant.
- (c) Individuals who appear to need medical attention.
- (d) Individuals struck by the CEW probes in a sensitive area (e.g., groin, female breast, near the eyes).
- (e) Individuals who request medical treatment.

If any individual refuses medical attention, such refusal should be witnessed by another probation peace officer and/or medical personnel and shall be fully documented in related reports. If an audio recording is made of the contact or of an interview with the individual, any refusal of medical attention should be included, if possible.

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The transporting probation officer shall inform any person receiving custody, or any person placed in a position of providing care, that the individual has been subjected to the application of the CEW.

### **383.5 PROCEDURE FOR AUTHORIZATION TO CARRY A CEW**

A. Possession or use of CEWs by on-duty probation peace officers is strictly prohibited except under conditions provided for in this Chapter and with the express written approval of the Chief Probation Officer or authorized designee.

B. The Department will not order a probation peace officer to carry a CEW and may restrict duty assignments accordingly.

C. Probation peace officers authorized to carry a CEW are encouraged to carry it at all times while on-duty. In any event, armed personnel shall have their CEW and all authorized safety equipment readily available to them while on-duty.

#### **383.5.1 AUTHORIZATION TO CARRY A CEW ON-DUTY**

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

B. The authorization to carry a CEW on-duty will contain all information required to complete the Arming Authorization form that is attached and considered a part of this policy.

C. The signed Arming Authorization form shall be kept in the probation peace officer's personnel file, with copies to the Departmental Training Officer and the Force Options Training instructors.

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

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

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

G. Any probation peace officer whose authority to carry a CEW is suspended or revoked shall surrender the CEW and related equipment immediately to a Force Options instructor.

H. Following the suspension of a probation peace officer's authority to carry a CEW, the Chief Probation Officer shall determine whether or not to revoke the authority.

#### **383.5.2 STOLEN OR LOST CEW**

A. A probation peace officer shall file a report with the appropriate law enforcement agency immediately upon discovering that his/her on-duty CEW is missing.

B. A probation peace officer also shall report a lost or stolen CEW to his/her supervisor immediately, who then will notify the Chief Probation Officer via the chain of command.

C. A probation peace officer will file a written report regarding the lost or stolen CEW with his/her supervisor by the end of the assigned shift. The written report shall be submitted to the Chief Probation Officer through the chain of command.

D. The probation peace officer may be required to reimburse the Department in the event that a Department-owned CEW and related equipment is lost through negligence of the probation peace officer pursuant to County policy. This requirement may be imposed in addition to any disciplinary action imposed by the Department for the officer's negligence.

E. Arrangements may be made for the temporary or permanent issuance of another CEW if the Chief Probation Officer authorizes such issuance.

#### **383.6 RESTRICTIONS ON CARRYING A CEW**

Probation peace officers who have been authorized to carry and use a CEW are prohibited from doing so under the following conditions:

1. While in a condition resulting from the use of alcohol and/or medication where the probation peace officer's motor skills, reflexes, vision, or judgment could be impaired. It is the probation

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peace officer's responsibility to notify his/her supervisor of any medication or substance he/she is taking that may cause such impairment.

2. While injured or in a physical condition causing inability to use a CEW effectively or properly; i.e., broken arm, eye injury causing impaired vision, etc.
3. While on leave for any reason, including disciplinary or administrative leave.
4. When the authorization to carry a CEW has been suspended or revoked.

### **383.7 REQUIRED TRAINING AND QUALIFICATION**

#### **A. Responsibility**

1. Any probation peace officer authorized or applying for authorization to carry a CEW must participate in all required departmental training and must meet all requirements set forth in these policies or otherwise required by the Department.

2. It shall be the responsibility of the Departmental Training Officer to ensure that a program of training which satisfies at least the minimum standards of training required by these policies is provided to probation peace officers authorized to carry CEWs.

3. It shall be the responsibility of every Probation Supervisor to ensure that each probation peace officer under his/her supervision who is authorized to carry a CEW complies with the training requirements of these policies, including any ongoing training and qualifications.

B. Required training shall include the probation peace officer's successful completion of an approved course on CEWs pursuant to Penal Code section 832, a course covering the Department's CEW policies, and such other training as set forth in these policies or otherwise required by the Department.

1. A probation peace officer must complete all training and qualification satisfactorily prior to being authorized to carry a CEW.

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2. The Force Options Training instructors shall monitor all legislative and policy changes relating to the use of CEWs by probation peace officers and shall provide necessary updated training in a timely manner.

3. The Force Options Training instructors shall maintain the training records of all probation peace officers authorized to carry CEWs and shall notify the Chief Probation Officer and the appropriate supervisor promptly when any probation peace officer is not in compliance with the Department's training requirements.

4. In addition to the training pursuant to Penal Code section 832, the CEW certification, and annual qualification, a probation peace officer authorized to carry a CEW shall have the following training:

a. CPR and First Aid certification.

b. A course on the departmental policies concerning the carrying of CEWs by probation peace officers.

c. Courses concerning the legal considerations for the carrying and use of CEWs, including:

(1) The laws governing arrests and searches incident to arrests;

(2) The laws of self-defense and the use of force by peace officers; and

(3) The civil liabilities of probation peace officers.

d. The ethical and moral considerations of the use of CEWs and deadly physical force.

e. A practical demonstration by the probation peace officers regarding:

(1) CEW safety;

(2) The care of a CEW;

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(3) CEW use proficiency; and

(4) CEW retention.

f. Self-defense options, including:

(1) Verbal commands;

(2) Defensive tactics;

(3) Chemical agents; and

(4) Firearms.

5. All of the above training shall be provided on a recurrent basis to maintain the probation peace officer's skills and knowledge, and to keep him/her current on any required certification.

6. The Department will not require probation peace officers undergoing CEW training to experience a CEW exposure; however, officers may volunteer for a CEW exposure subject to completing a form advising the officer of the risks involved.

C. Any probation peace officer authorized to carry and use a CEW must be certified as currently qualified to do so by the Force Options Training instructors.

1. The minimum qualifying score for each type of CEW shall be established by Taser International.

2. Probation peace officers shall comply with the Force Options Training instructor's policies and directions.

3. The Force Options Training instructors shall administer a CEW qualification program to ensure competency among all probation peace officers authorized to carry CEWs.

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4. Each probation peace officer authorized to carry a CEW shall qualify annually.
  
5. Any probation peace officer who fails to qualify shall have his/her authority to carry a CEW suspended. This suspension will remain in effect until the individual receives additional training and qualifies. Continued failure to qualify will result in revocation of the authority to carry a CEW.
  
6. Qualification shall take place during pre-announced training dates. Request for qualification outside of pre-announced training dates may be approved by the Force Options Training instructors and scheduled with the Force Options Training instructors.
  
7. The Force Options Training instructors shall prepare and submit an annual CEW qualification report to the Chief Probation Officer.
  
8. Any probation officer who has not carried a CEW as a part of his or her duty assignment for at least six months shall be re-certified by the Force Options Training instructors prior to carrying or using a CEW.
  
9. Inappropriate or criminal use of a CEW may be grounds for discipline, up to and including termination from employment.

### **383.8 MAINTENANCE OF CEWS**

- A. Each CEW shall have its firing data downloaded and internal clock synchronized monthly by the designated Force Options Training instructor.
  
- B. All maintenance of any issued CEW shall be brought to the immediate attention of the designated Force Options Training instructor.

## Department Use of Social Media

### 384.1 PURPOSE AND SCOPE

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

This policy does not address all aspects of social media use; specifically, it does not address:

- Personal use of social media by Department employees (see the Employee Speech, Expression and Social Networking Policy)
- Use of social media in personnel processes (see the Recruitment and Selection Policy)
- Use of social media as part of a criminal investigation, other than disseminating information to the public on behalf of this Department

#### 384.1.1 DEFINITIONS

Definitions related to this policy include:

**Social media** - Any of a wide array of Internet-based tools and platforms that allow for the sharing of information, such as the Department website or social networking services

### 384.2 POLICY

The Yolo County Probation Department may use social media as a method of informing the public about Department services, issues and other relevant events.

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

### 384.3 AUTHORIZED USERS

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

The Chief Probation Officer may develop specific guidelines identifying the type of content that may be posted. Any content that does not strictly conform to the guidelines should be approved by Management prior to posting.

Requests to post information over Department social media by employees who are not authorized to post should be made through the employee's chain of command.

### 384.4 AUTHORIZED CONTENT

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

Examples of appropriate content include:

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- (a) Announcements.
- (b) Tips and information related to crime prevention.
- (c) Investigative requests for information.
- (d) Requests that ask the community to engage in projects that are relevant to the Department mission.
- (e) Real-time safety information that is related to in-progress crimes, geographical warnings or disaster information.
- (f) Traffic information.
- (g) Press releases.
- (h) Recruitment of personnel.

### **384.4.1 INCIDENT-SPECIFIC USE**

In instances of active incidents where speed, accuracy and frequent updates are paramount (e.g., crime alerts, public safety information, traffic issues), the Chief Probation Officer's designee will be responsible for the compilation of information to be released, subject to the approval of the Chief Probation Officer..

### **384.5 PROHIBITED CONTENT**

Content that is prohibited from posting includes, but is not limited to:

- (a) Content that is abusive, discriminatory, inflammatory or sexually explicit.
- (b) Any information that violates individual rights, including confidentiality and/or privacy rights and those provided under state, federal or local laws.
- (c) Any information that could compromise an ongoing investigation.
- (d) Any information that could compromise or damage the mission, function, reputation or professionalism of the Yolo County Probation Department or its employees.
- (e) Any information that could compromise the safety and security of Department operations, employees of the Department, victims, suspects or the public.
- (f) Any content posted for personal use.
- (g) Any content that has not been properly authorized by this policy or a Supervisor.

Any employee who becomes aware of content on this Department's social media site that he or she believes is unauthorized or inappropriate should report such content promptly to a Supervisor. The Supervisor will ensure its removal from public view and investigate the cause of the entry.

### **384.5.1 PUBLIC POSTING PROHIBITED**

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

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

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### **384.6 MONITORING CONTENT**

The Chief Probation Officer will appoint a Supervisor to review, at least annually, the use of Department social media and report back on, at a minimum, the resources being used, the effectiveness of the content, any unauthorized or inappropriate content and the resolution of any issues.

### **384.7 RETENTION OF RECORDS**

The Chief Probation Officer or designee should work with the Custodian of Records to establish a method of ensuring that public records generated in the process of social media use are retained in accordance with established records retention schedules.

### **384.8 TRAINING**

Authorized employees should receive training that, at a minimum, addresses legal issues concerning the appropriate use of social media sites, as well as privacy, civil rights, dissemination, and retention of information posted on Department sites.

## Chapter 4 - Patrol Operations

## Racial or Bias-Based Profiling

### 400.1 PURPOSE AND SCOPE

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

### 400.2 POLICY

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

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

### 400.3 RACIAL OR BIAS-BASED PROFILING PROHIBITED

The practice of racial/bias-based profiling is illegal and will not be tolerated by the Yolo County Probation Department. (Pen. Code §13519.4(f).)

- (a) It is the responsibility of every employee of this Department to prevent, report, and respond appropriately to discriminatory or biased practices.
- (b) Every employee of this Department engaging in a non-consensual detention shall be prepared to articulate sufficient reasonable suspicion to justify the detention independent of the detainee's membership in a protected class.
  1. To the extent that written documentation would otherwise be completed (e.g., arrest report, F.I. card, etc.), the involved officer should include those facts giving rise to the officer's reasonable suspicion or probable cause for the contact.
  2. Nothing in this policy shall require any officer to prepare documentation of a contact that would not otherwise involve such reporting.
  3. While the practice of racial profiling is strictly prohibited, it is recognized that race or ethnicity may be considered by an officer in combination with other available information to establish reasonable suspicion or probable cause (e.g., suspect description is limited to a specific race or group).

The Yolo County Probation Department will investigate all complaints of alleged racial/bias-based profiling against its employees. Employees found to be in violation may be subject to discipline up to and including termination in accordance with this Department's policies.

## *Racial or Bias-Based Profiling*

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### **400.3.1 CALIFORNIA RELIGIOUS FREEDOM ACT**

Employees shall not collect information from a person based on that person's religious belief, practices, affiliation, national origin or ethnicity except as permitted under state or federal law. (Gov. Code § 8310.3 (c). )

Employees shall not assist federal government authorities :

- (a) In compiling personal information about a person's religious belief, practice, affiliation, national origin or ethnicity.
- (b) By investigating, enforcing or assisting with the investigation or enforcement of any requirement that a person register with the federal government based on religious belief, practice, or affiliation, or national origin or ethnicity. (Govt. Code § 8310.3 (b) (1). )

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

The Chief Probation Officer or authorized designee shall ensure that all data required by the Department of Justice (DOJ) regarding citizen complaints of racial bias against officers is collected and reported annually to DOJ. (Pen. Code §§ 13012 13020. )

## Hazardous Material Response

### 409.1 PURPOSE AND SCOPE

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

#### 409.1.1 HAZARDOUS MATERIAL DEFINED

A hazardous material is a substance that 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 sensitizers and thereby posing a threat to health when improperly managed.

### 409.2 HAZARDOUS MATERIAL RESPONSE

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

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

- (a) Attempt to identify the type of hazardous substance.
- (b) Notify the Fire Department.
- (c) Provide first-aid for injured parties if it can be done safely and without contamination.
- (d) Begin evacuation of the immediate area and surrounding areas, depending on the substance. Voluntary evacuation should be considered; however, depending on the substance, mandatory evacuation may be necessary.
- (e) Notify the Yolo County Environmental Health Department. Such notification is mandatory when a spilled or released item is a pesticide. (Health and Safety Code § 105215.)
- (f) Notify the State Department of Toxic Substances Control. This is mandatory when an officer comes in contact with, or is aware of, the presence of a suspected hazardous substance at a site where an illegal controlled substance is or was manufactured. (Health and Safety § 25354.5.)

### 409.3 REPORTING EXPOSURE(S)

Department personnel who believe they have been exposed to a hazardous material shall immediately report the exposure to a Supervisor. Each exposure shall be documented by the employee in an incident report that shall be forwarded via chain of command to the Unit Supervisor and/or designee. 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 report.

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## Policy Manual

### *Hazardous Material Response*

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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 an incident report.

#### 409.3.1 SUPERVISOR RESPONSIBILITY

When a Supervisor has been informed that an employee has been exposed to a hazardous material, he or she shall ensure immediate medical treatment is obtained and appropriate action is taken to lessen the exposure. In addition, the Supervisor shall notify Management of the exposure incident as soon as practicable.

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

# Immigration Violations

## 425.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines to members of the Yolo County Probation Department relating to immigration and interacting with federal immigration officials.

### 425.1.1 DEFINITIONS

The following definitions apply to this policy (Gov. Code § 7284.4.):

**Criminal immigration violation** - Any federal criminal immigration violation that penalizes a person's presence in, entry, or reentry to, or employment in, the United States. This does not include any offense where a judicial warrant already has been issued.

**Immigration enforcement** - Any and all efforts to investigate, enforce, or assist in the investigation or enforcement of any federal civil immigration law, including any and all efforts to investigate, enforce, or assist in the investigation or enforcement of any federal criminal immigration law that penalizes a person's presence in, entry or reentry to, or employment in the United States.

**Judicial warrant** - An arrest warrant for a violation of federal criminal immigration law and issued by a federal judge or a federal magistrate judge.

## 425.2 POLICY

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

## 425.3 VICTIMS AND WITNESSES

To encourage crime reporting and cooperation in the investigation of criminal activity, all individuals, regardless of their immigration status, must feel secure that contacting or being addressed by members of law enforcement will not automatically lead to immigration inquiry and/or deportation. While it may be necessary to determine the identity of a victim or witness, members shall treat all individuals equally and without regard to race, ethnicity, or national origin in any way that would violate the United States or California constitutions.

### 425.3.1 BASIS FOR CONTACT

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

## 425.4 DETENTIONS AND ARRESTS

An officer shall not detain any individual, for any length of time, for a civil violation of federal immigration laws or a related civil warrant. (Gov. Code § 7284.6.)

## *Immigration Violations*

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An officer who has a reasonable suspicion that an individual already lawfully contacted or detained has committed a criminal violation of 8 USC section 1326(a) (unlawful reentry) that may be subject to an enhancement due to a previous conviction of an aggravated felony under 8 USC section 1326(b)(2), may detain the person for a reasonable period of time to contact federal immigration officials to verify whether the United States Attorney General has granted the individual permission for reentry and whether the violation is subject to enhancement. (Gov. Code § 7284.6.) No individual who is otherwise ready to be released should continue to be detained only because questions about the individual's status are unresolved.

If the officer has facts that establish probable cause to believe that a person already lawfully detained has violated 8 USC section 1326(a) and the penalty may be subject to enhancement due to prior conviction for specified aggravated felonies, he/she may arrest the individual for that offense. (Gov. Code § 7284.6.)

An officer shall not detain any individual, for any length of time, for any other criminal immigration violation of federal immigration laws. (Gov. Code § 7284.6.)

An officer should notify a Supervisor as soon as practicable whenever an individual is arrested for a violation of 8 USC section 1326(a). (Reentry of Removed Aliens.)

### **425.4.1 SUPERVISOR RESPONSIBILITIES**

When notified that an officer has arrested an individual for a violation of 8 USC section 1326(a) or under the authority of a judicial warrant, the Supervisor should determine whether it is appropriate to :

- (a) Transfer the person to federal authorities or to jail.

### **425.5 FEDERAL REQUESTS FOR ASSISTANCE**

Absent an urgent issue of officer safety or other emergency circumstances, requests by federal immigration officials for assistance from the Yolo County Probation Department should be directed to a Supervisor. The Supervisor is responsible for determining whether the requested assistance would be permitted under the California Values Act. (Gov. Code § 7284.2 et seq.)

### **425.6 INFORMATION SHARING**

No member of the Yolo County Probation Department will prohibit, or in any way restrict, any other member from doing any of the following regarding the citizenship or immigration status, lawful or unlawful, of any individual (8 USC § 1373; Gov. Code § 7284.6):

- (a) Sending information to, or requesting or receiving such information from federal immigration officials.
- (b) Maintaining such information in Department records.
- (c) Exchanging such information with any other federal, state, or local government entity.

Nothing in this policy restricts sharing information that is permissible under the California Values Act.

## *Immigration Violations*

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### 425.6.1 NOTICE TO INDIVIDUALS

Individuals in custody shall be given a copy of documentation received from U.S. Immigration and Customs Enforcement (ICE) regarding a hold, notification, or transfer request, along with information as to whether the detention facility intends to comply with the request. (Gov. Code § 7283.1.)

If the detention facility provides ICE with notification that an individual is being, or will be, released on a certain date, the same notification shall be provided in writing to the individual and to his/her attorney or to one additional person whom the individual may designate. (Gov. Code § 7283.1.)

### 425.6.2 ICE INTERVIEWS

Before any interview regarding civil immigration violations takes place between ICE personnel and an individual in custody, the detention facility shall provide the individual with a written consent form that explains the purpose of the interview, that the interview is voluntary, and that he/she may decline to be interviewed or may choose to be interviewed only with his/her attorney present. The consent form must be available in the languages specified in Government Code section 7283.1.

### 425.6.3 TRANSFERS TO IMMIGRATION AUTHORITIES

Members shall not transfer an individual to immigration authorities unless one of the following circumstances exist (Gov. Code § 7282.5; Gov. Code § 7284.6):

- (a) Transfer is authorized by a judicial warrant or judicial probable cause determination.
- (b) The individual has been convicted of an offense as identified in Government Code section 7282.5(a).
- (c) The individual is a current registrant on the California Sex and Arson Registry.
- (d) The individual is identified by the U.S. Department of Homeland Security's Immigration and Customs Enforcement as the subject of an outstanding federal felony arrest warrant.

### 425.6.4 REPORTING TO CALIFORNIA DEPARTMENT OF JUSTICE

The Field Services Supervisor shall ensure that data regarding the number of transfers of an individual to immigration authorities, as permitted by Government Code section 7284.6(a)(4), and the offense that allowed for the transfer is collected and provided to the Office Supervisor for required reporting to the DOJ. (Government Code § 7284.6(c)(2) (see the Records Maintenance and Release Policy.)

## Foot Pursuits

### 455.1 PURPOSE AND SCOPE

Foot pursuits are inherently dangerous and require common sense, sound tactics and heightened officer safety awareness. This policy sets forth guidelines to assist officers in making the decision to initiate or continue the pursuit of subjects on foot.

#### 455.1.1 POLICY

It is the policy of the Yolo County Probation Department when deciding to initiate or continue a foot pursuit, officers must balance throughout the pursuit the objective of apprehending the subject against the risk and potential for injury to Department personnel, the public or the subject.

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

### 455.2 DECISION TO PURSUE

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

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

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

If circumstances permit, surveillance and containment are generally the safest tactics for apprehending fleeing persons. In deciding whether to initiate or continue a foot pursuit, an officer should continuously consider reasonable alternatives to pursuit based upon the circumstances and resources available, including but not limited to the following:

- (a) Containment of the area.
- (b) Saturation of the area with other law enforcement assisting.
- (c) Apprehension at another time when the identity and location of the subject is known or there is information available that would likely allow for later apprehension, and the need to immediately apprehend the subject does not reasonably appear to outweigh the risk of continuing the pursuit.

## Foot Pursuits

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### 455.3 GUIDELINES FOR FOOT PURSUIT

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

- (a) The officer is ordered by a Supervisor to terminate the foot pursuit.
- (b) The officer is acting alone.
- (c) Two or more officers become separated, lose visual contact with one another, or obstacles separate them to the degree they cannot immediately assist each other should a confrontation take place. In such circumstances, it is generally recommended that a single officer keep the subject in sight from a safe distance and coordinate the containment effort.
- (d) The officer is unsure of his or her location and direction of travel.
- (e) There are multiple subjects and the pursuing officers do not reasonably believe they would be able to control the subject(s) should a confrontation occur.
- (f) The physical condition of the officers renders them incapable of controlling the subject if apprehended.
- (g) The officer loses radio contact with Dispatch or with backup officers.
- (h) The subject enters a building, structure, confined space or a wooded or otherwise isolated area and there are insufficient officers to provide backup and containment. The primary officer should consider discontinuing the pursuit and coordinating containment pending the arrival of sufficient officers.
- (i) The officer becomes aware of unanticipated or unforeseen circumstances that unreasonably increase the risk to officers or the public.
- (j) The officer reasonably believes the danger to the pursuing officers or public outweighs the objective of immediate apprehension.
- (k) The officer loses possession of his or her firearm or other essential equipment.
- (l) The officer or a third party is injured during the pursuit, requiring immediate assistance, and there are no other emergency personnel available to render assistance.
- (m) The subject's location is no longer definitely known.
- (n) The identity of the subject is established or other information exists that will allow for the subject's apprehension at a later time, and it reasonably appears that there is no immediate threat to Department personnel or the public if the subject is not immediately apprehended.
- (o) The officer's ability to safely continue the pursuit is impaired by inclement weather, darkness or other conditions.

### 455.4 RESPONSIBILITIES IN FOOT PURSUITS

## *Foot Pursuits*

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### **455.4.1 INITIATING OFFICER RESPONSIBILITIES**

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

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

- (a) Probation Officer or Detention Officer identifier.
- (b) Location and direction of travel.
- (c) Reason for the foot pursuit.
- (d) Number of subjects and description.
- (e) Whether the subject is known or believed to be armed or dangerous.

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

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

When a foot pursuit terminates, the officer will notify Dispatch of his or her location and the status of the pursuit termination (e.g., suspect in custody, lost sight of suspect), and will direct further actions as reasonably appear necessary.

### **455.4.2 ASSISTING OFFICER RESPONSIBILITIES**

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

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

### **455.5 REPORTING**

The initiating officer shall complete the appropriate incident reports documenting, at minimum, the following:

- (a) The reason for initiating the foot pursuit.
- (b) The identity of involved personnel.

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### *Foot Pursuits*

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- (c) The course and approximate distance of the pursuit.
- (d) The means and methods used to apprehend the subject.
- (e) Any injuries or property damage.

Any use of force shall be reported and documented in compliance with the Department Use of Force Policy. Assisting officers taking an active role in the apprehension of the subject shall complete supplemental reports as necessary or as directed.

A Supervisor may determine a formal report is not needed.

## Crisis Intervention Incidents

### 462.1 PURPOSE AND SCOPE

This policy provides guidelines for interacting with those who may be experiencing a mental health or emotional crisis. Interaction with such individuals has the potential for miscommunication and violence. It often requires an officer to make difficult judgments about a person's mental state and intent in order to effectively and legally interact with the individual.

#### 462.1.1 DEFINITIONS

Definitions related to this policy include:

**Person in crisis** - A person whose level of distress or mental health symptoms have exceeded the person's internal ability to manage his or her behavior or emotions. A crisis can be precipitated by any number of things, including an increase in the symptoms of mental illness despite treatment compliance; non-compliance with treatment, including a failure to take prescribed medications appropriately; or any other circumstance or event that causes the person to engage in erratic, disruptive or dangerous behavior that may be accompanied by impaired judgment.

### 462.2 POLICY

The Yolo County Probation Department is committed to providing a consistently high level of service to all members of the community and recognizes that persons in crisis may benefit from intervention. The Department will collaborate, where feasible, with mental health professionals to develop an overall intervention strategy to guide its employee's interactions with those experiencing a mental health crisis. This is to ensure equitable and safe treatment of all involved.

### 462.3 SIGNS

Employees should be alert to any of the following possible signs of mental health issues or crises:

- A known history of mental illness.
- Threats of or attempted suicide.
- Loss of memory.
- Incoherence, disorientation or slow response.
- Delusions, hallucinations, perceptions unrelated to reality or grandiose ideas.
- Depression, pronounced feelings of hopelessness or uselessness, extreme sadness or guilt.
- Social withdrawal.
- Manic or impulsive behavior, extreme agitation, lack of control.
- Lack of fear.
- Anxiety, aggression, rigidity, inflexibility or paranoia.

## *Crisis Intervention Incidents*

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Employees should be aware this list is not exhaustive. The presence or absence of any of these factors should not be treated as proof of the presence or absence of a mental health issue or crisis.

### **462.4 COORDINATION WITH MENTAL HEALTH PROFESSIONALS**

The Chief Probation Officer or designee shall designate an appropriate employee to collaborate with mental health professionals to develop an education and response protocol. It should include a list of community resources, to guide Department interaction with those who may be suffering from mental illness or who appear to be in a mental health crisis.

### **462.5 FIRST RESPONDERS**

Safety is a priority for first responders. It is important to recognize individuals under the influence of alcohol, drugs or both may exhibit symptoms that are similar to those of a person in a mental health crisis. These individuals may still present a serious threat to officers; such a threat should be addressed with reasonable tactics. Nothing in this policy shall be construed to limit an officer's authority to use reasonable force when interacting with a person in crisis.

Officers are reminded mental health issues, mental health crises and unusual behavior alone are not criminal offenses. Individuals may benefit from treatment as opposed to incarceration.

An officer encountering a person in crisis should:

- Promptly assess the situation independent of reported information and make a preliminary determination regarding whether a mental health crisis may be a factor.
- Request available backup officers and specialized resources as deemed necessary and, if it is reasonably believed that the person is in a crisis situation, use conflict resolution and de-escalation techniques to stabilize the incident as appropriate.
- If feasible, and without compromising safety, turn off flashing lights or bright lights.
- Attempt to determine if weapons are present or available.
- Prior to making contact, and whenever possible and reasonable, conduct a search of the Department of Justice Automated Firearms System via the California Law Enforcement Telecommunications System (CLETS) to determine whether the person is the registered owner of a firearm. (Pen. Code § 11106.4.)
- Take into account the person's mental and emotional state and potential inability to understand commands or to appreciate the consequences of his or her action or inaction, as perceived by the officer.
- Secure the scene and clear the immediate area as necessary.
- Employ tactics to preserve the safety of all participants.
- Determine the nature of any crime.
- Request a Supervisor, as warranted.
- Evaluate any available information that might assist in determining cause or motivation for the person's actions or stated intentions.

## *Crisis Intervention Incidents*

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- If circumstances reasonably permit, consider and employ alternatives to force.

### **462.6 DE-ESCALATION**

Officers should consider that taking no action or passively monitoring the situation may be the most reasonable response to a mental health crisis.

Once it is determined a situation is a mental health crisis and immediate safety concerns have been addressed, responding officers should be aware of the following considerations and should generally:

- Evaluate safety conditions.
- Introduce themselves and attempt to obtain the person's name.
- Be patient, polite, calm, courteous and avoid overreacting.
- Speak and move slowly and in a non-threatening manner.
- Moderate the level of direct eye contact.
- Remove distractions or disruptive people from the area.
- Demonstrate active listening skills (e.g., summarize the person's verbal communication).
- Provide for sufficient avenues of retreat or escape should the situation become volatile.

Responding officers generally should not:

- Use stances or tactics that can be interpreted as aggressive.
- Allow others to interrupt or engage the person.
- Corner a person who is not believed to be armed, violent or suicidal.
- Argue, speak with a raised voice or use threats to obtain compliance.

### **462.7 INCIDENT ORIENTATION**

When responding to an incident that may involve mental illness or a mental health crisis, the officer should attempt to obtain critical information as it becomes available. This includes:

Whether the person relies on drugs or medication, or may have failed to take his or her medication.

Whether there have been prior incidents, suicide threats/attempts, and whether there has been previous mental health hospitalization or contact.

Contact information for a treating physician or mental health professional.

Additional resources and a Supervisor should be requested as warranted.

## *Crisis Intervention Incidents*

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### **462.8 SUPERVISOR RESPONSIBILITIES**

A Supervisor should be available for support for any interaction with a person in crisis. If the situation warrants and if the Supervisor has the ability to respond, Supervisors should:

- Attempt to secure appropriate and sufficient resources.
- Closely monitor any use of force, including the use of restraints, and ensure that those subjected to the use of force are provided with timely access to medical care (see the Handcuffing and Restraints Policy).
- Consider strategic disengagement. Absent an imminent threat to the public, and as circumstances dictate, this may include removing or reducing law enforcement resources or engaging in passive monitoring.
- Ensure that all reports are completed and that incident documentation uses appropriate terminology and language.
- If force is used or injury is incurred, conduct an after-action tactical and operational debriefing, and prepare an after-action evaluation of the incident to be presented in person or in writing to the Chief Probation Officer or designee.
- Evaluate whether a critical incident stress management debriefing for involved members is warranted.

### **462.9 INCIDENT REPORTING**

Employees engaging in any oral or written communication associated with a mental health crisis should be mindful of the sensitive nature of such communications and should exercise appropriate discretion when referring to or describing persons and circumstances.

Employees having contact with a person in crisis should keep related information confidential, except to the extent that revealing information is necessary to conform to Department reporting procedures or other official mental health or medical proceedings.

### **462.10 NON-SWORN INTERACTION WITH PEOPLE IN CRISIS**

Non-sworn employees may be required to interact with persons in crisis in an administrative capacity, such as answering the phone or checking in at the lobby.

Employees should treat all individuals equally and with dignity and respect.

If an employee believes he or she is interacting with a person in crisis, he or she should proceed patiently and in a calm manner.

Employees should be aware and understand the person may make unusual or bizarre claims or requests.

If a person's behavior makes the employee feel unsafe, if the person is or becomes disruptive or violent, or if the person acts in such a manner as to cause the employee to believe that the person may be harmful to him or herself or others, an officer should be promptly summoned to provide assistance.

## *Crisis Intervention Incidents*

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### **462.11 EVALUATION**

The Chief Probation Officer or designee designated to coordinate the crisis intervention strategy for this Department should ensure a thorough review and analysis of the Department response to these incidents is conducted annually. The report will not include identifying information pertaining to any involved individuals, officers or incidents and will be submitted to the Chief Probation Officer through the chain of command.

### **462.12 TRAINING**

In coordination with the mental health community and appropriate stakeholders, the Department will develop and provide comprehensive education and training to all Department employees to enable them to effectively interact with persons in crisis.

## Portable Audio/Video Recorders

### 463.1 PURPOSE AND SCOPE

This policy provides guidelines for the use of portable audio/video recording devices by officers of this Department while in the performance of their duties. Portable audio/video recording devices include all recording systems whether body-worn, hand held or integrated into portable equipment.

This policy does not apply to vehicle audio/video recordings, interviews or interrogations conducted at any Yolo County Probation Department facility or authorized undercover operations.

### 463.2 POLICY

The Yolo County Probation Department may provide officers with access to portable recorders, either audio or video or both, for use during the performance of their duties. The use of recorders is intended to enhance the mission of the Department by accurately capturing contacts between officers of the Department and the public.

### 463.3 COORDINATOR

The Chief Probation Officer or the authorized designee shall appoint a member of the Department to coordinate the use and maintenance of portable audio/video recording devices and the storage of recordings, including :

- (a) Establishing a system for downloading, storing and security of recordings.
- (b) Designating persons responsible for downloading recorded data.
- (c) Establishing a maintenance system to ensure availability of operable portable audio/video recording devices.
- (d) Establishing a system for tagging and categorizing data according to the type of incident captured.
- (e) Establishing a system to prevent tampering, deleting and copying recordings and ensure chain of custody integrity.
- (f) Working with counsel to ensure an appropriate retention schedule is being applied to recordings and associated documentation.
- (g) Maintaining logs of access and deletions of recordings.

(See Pen. Code §832.18)

### 463.4 EMPLOYEE PRIVACY EXPECTATION

All recordings made by officers on any Department-issued device at any time, and any recording made while acting in an official capacity of the Department, regardless of ownership of the device it was made on, shall remain the property of the Department. Officers shall have no expectation of privacy or ownership interest in the content of these recordings.

## *Portable Audio/Video Recorders*

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### **463.5 EMPLOYEES RESPONSIBILITIES**

Any officer may carry an approved portable recorder at any time the officer believes that such a device may be useful. Unless conducting a lawful recording in an authorized undercover capacity, non-uniformed officers should wear the recorder in a conspicuous manner when in use or otherwise notify persons that they are being recorded, whenever reasonably practicable.

When using a portable recorder, the assigned officer shall record his or her name, YCPD identification number and the current date and time at the beginning and the end of the incident recorded. This procedure is not required when the recording device and related software captures the user's unique identification and the date and time of each recording.

Officers should document the existence of a recording in any report or other official record of the contact, including any instance where the recorder malfunctioned or the officer deactivated the recording. Officers should include the reason for deactivation.

#### **463.5.1 SUPERVISOR RESPONSIBILITIES**

Supervisors should take custody of a portable audio/video recording device as soon as practicable when the device may have captured an incident involving the use of force, an officer-involved shooting or death or other serious incident, and ensure the data is properly secured and downloaded. ( See Pen. Code § 832.18.)

### **463.6 ACTIVATION OF THE PORTABLE RECORDER**

This policy is not intended to describe every possible situation in which the portable recorder should be used, although there are many situations where its use is appropriate. Officers should activate the recorder any time the officer believes it would be appropriate or valuable to record an incident.

Officers should remain sensitive to the dignity of all individuals being recorded and exercise sound discretion to respect privacy by discontinuing recording whenever it reasonably appears to the officer that such privacy may outweigh any legitimate law enforcement interest in recording. Requests by members of the public to stop recording should be considered using this same criterion. Recording should resume when privacy is no longer at issue unless the circumstances no longer fit the criteria for recording.

At no time is an officer expected to jeopardize his or her safety in order to activate a portable recorder or change the recording media.

#### **463.6.1 CESSATION OF RECORDING**

Once activated, the portable recorder should remain on continuously until the officer reasonably believes that his or her direct participation in the incident is complete.

Officers shall cease audio recording whenever necessary to ensure conversations are not recorded between a person in custody and the person's attorney, religious advisor or physician, unless there is explicit consent from all parties to the conversation. (Pen. Code § 636.)

# Yolo County Probation Department

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### *Portable Audio/Video Recorders*

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#### **463.6.2 SURREPTITIOUS USE OF THE PORTABLE RECORDER**

Officers of the Department may surreptitiously record any conversation during the course of a criminal investigation in which the officer reasonably believes that such a recording will be lawful and beneficial to the investigation..

Officers shall not surreptitiously record another Department employee without a court order unless lawfully authorized by the Chief Probation Officer or the authorized designee.

#### **463.6.3 EXPLOSIVE DEVICE**

Many portable recorders, including body-worn cameras and audio/video transmitters, emit radio waves that could trigger an explosive device. Therefore, these devices should not be used where an explosive device may be present.

#### **463.7 PROHIBITED USE OF PORTABLE RECORDERS**

Employees are prohibited from using Department-issued portable recorders and recording media for personal use and are prohibited from making personal copies of recordings created while on-duty or while acting in their official capacity.

Employees are also prohibited from retaining recordings of activities or information obtained while on-duty, whether the recording was created with Department-issued or personally owned recorders. Employees shall not duplicate or distribute such recordings, except for authorized legitimate Department business purposes. All such recordings shall be retained at the Department.

Employees are prohibited from using personally owned recording devices while on-duty without the express consent of the Chief Probation Officer or designee. Any employee who uses a personally owned recorder for Department-related activities shall comply with the provisions of this policy, including retention and release requirements, and should notify the Supervisor of such use as soon as reasonably practicable.

Recordings shall not be used by any employee for the purpose of embarrassment, harassment or ridicule.

A violation of this policy may result in discipline up to and including termination.

#### **463.7.1 PROHIBITED USE OF BIOMETRIC SURVEILLANCE SYSTEM**

The installation, activation, or use of biometric surveillance systems, including facial recognition, in connection with portable recorders is prohibited (Pen Code § 832.19 )

#### **463.8 IDENTIFICATION AND PRESERVATION OF RECORDINGS**

To assist with identifying and preserving data and recordings, officers should download, tag or mark these in accordance with procedure and document the existence of the recording in any related case report.

## *Portable Audio/Video Recorders*

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Any time an officer reasonably believes a recorded contact may be beneficial in a non-criminal matter (e.g., a hostile contact), the officer should promptly notify a Supervisor of the existence of the recording.

### **463.9 RETENTION OF RECORDINGS**

Recordings of the following should be retained for a minimum of two years :

- (a) Incident involving use of force by an officer
- (b) Officer-involved shootings
- (c) Incidents that lead to the detention or arrest of an individual
- (d) Recordings relevant to a formal or informal complaint against an officer or the Yolo County Probation Department

Recordings containing evidence that may be relevant to a criminal prosecution should be retained for any additional period required by law for other evidence relevant to a criminal prosecution.

All other recordings should be retained for a period consistent with the requirements of the organization's records retention schedule but in no event for a period less than 180 days.

Records or logs of deletion of recordings should be retained permanently.

#### **463.9.1 RELEASE OF AUDIO/VIDEO RECORDINGS**

Requests for the release of audio/video recordings shall be processed in accordance with the Records Maintenance and Release Policy.

### **463.10 REVIEW OF RECORDED MEDIA FILES**

When preparing written reports, employees should review their recordings as a resource (see the Officer-Involved Shootings and Deaths Policy for guidance in those cases). However, employees shall not retain personal copies of recordings. Employees should not use the fact that a recording was made as a reason to write a less detailed report.

Supervisors are authorized to review relevant recordings any time they are investigating alleged misconduct or reports of meritorious conduct or whenever such recordings would be beneficial in reviewing the employee's performance.

Recorded files may also be reviewed:

- (a) Upon approval by a Supervisor, by any employee of the Department who is participating in an official investigation, such as a personnel complaint, administrative investigation or criminal investigation.
- (b) Pursuant to lawful process or by court personnel who are otherwise authorized to review evidence in a related case.
- (c) By media with permission of the Chief Probation Officer or the authorized designee.
- (d) In compliance with a public records request, if permitted, and in accordance with the Records Maintenance and Release Policy.

# Yolo County Probation Department

## Policy Manual

### *Portable Audio/Video Recorders*

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All recordings should be reviewed by the Custodian of Records prior to public release. (see the Records Maintenance and Release Policy.) Recordings that unreasonably violate a person's privacy or sense of dignity should not be publicly released unless disclosure is required by law or court order. .

## Public Recording of Law Enforcement Activity

### 464.1 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 employees of this Department. In addition, this policy provides guidelines for situations where the recordings may be evidence.

### 464.2 POLICY

The Yolo County Probation Department recognizes the right of persons to lawfully record employees of this Department who are performing their official duties. Employees 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.

Officers 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 employees of this Department from performing their official duties.

### 464.3 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. (Pen. Code §§ 69 and 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 officers.
  4. Being so close to the activity as to interfere with an officer's effective communication with a suspect or witness.
- (c) The individual may not present an undue safety risk to the officers, him or herself or others.

### 464.4 OFFICER RESPONSE

Officers should promptly request that a Supervisor respond to the scene whenever it appears that anyone recording activities may be interfering with an investigation or it is believed that the recording may be evidence. If practicable, officers should wait for the Supervisor to arrive before taking enforcement action or seizing any cameras or recording media.

## *Public Recording of Law Enforcement Activity*

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Whenever practicable, officers or Supervisors should give clear and concise warnings to individuals who are conducting themselves in a manner that would cause their recording or behavior to be unlawful. Accompanying the warnings should be clear directions on what an 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 officer could advise the person that he or 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, officers shall document in a report the nature and extent of the interference or other unlawful behavior and the warnings that were issued.

### **464.5 SUPERVISOR RESPONSIBILITIES**

A Supervisor should respond to the scene when requested or any time the circumstances indicate a likelihood of interference or other unlawful behavior.

The Supervisor should review the situation with the officer and:

- (a) Request any additional assistance as needed to ensure a safe environment.
- (b) Take a lead role in communicating with individuals who are observing or recording regarding any appropriate limitations on their location or behavior. When practical, the encounter should be recorded.
- (c) When practicable, allow adequate time for individuals to respond to requests for a change of location or behavior.
- (d) Ensure that any enforcement, seizure or other actions are consistent with this policy and constitutional and state law.
- (e) Explain alternatives for individuals who wish to express concern about the conduct of Department employees, such as how and where to file a complaint.

### **464.6 SEIZING RECORDINGS AS EVIDENCE**

Officers should not seize recording devices or media unless (42 USC § 2000a):

- (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.

# Yolo County Probation Department

## Policy Manual

### *Public Recording of Law Enforcement Activity*

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2. If the original recording is given to the Department, a copy of the recording should be provided to the recording party, if practicable. Another way to obtain the evidence is to transmit a copy of the recording from a device to a Department -owned device.

Recording devices and media that are seized will be submitted within the guidelines of the Property and Evidence Policy.

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## Medical Aid and Response

### 465.1 PURPOSE AND SCOPE

This policy recognizes that employees often encounter persons in the course of employment who appear to be in need of medical aid and establishes a Probation Department response to such situations.

### 465.2 POLICY

It is the policy of the Yolo County Probation Department that all officers and other designated members be trained to provide emergency medical aid and to facilitate an emergency medical response when encountering persons in the course of employment who appear to be in need of medical aid.

### 465.3 FIRST RESPONDING EMPLOYEE RESPONSIBILITIES

Whenever practicable, employees should take appropriate steps to provide initial medical aid (e.g., first aid, CPR and use of an automated external defibrillator (AED)) in accordance with their training and current certification levels. This should be done for those in need of immediate care and only when the employee can safely do so.

Prior to initiating medical aid, the employee should contact Dispatch and request response by Emergency Medical Services (EMS) as the employee deems appropriate.

Employees should follow universal precautions when providing medical aid, such as wearing gloves and avoiding contact with bodily fluids, consistent with the Communicable Diseases Policy. Employees should use a barrier or bag device to perform rescue breathing.

When requesting EMS, the member should provide Dispatch with information for relay to EMS personnel in order to enable an appropriate response, including:

- (a) The location where EMS is needed.
- (b) The nature of the incident.
- (c) Any known scene hazards.
- (d) Information on the person in need of EMS, such as:
  1. Signs and symptoms as observed by the employee.
  2. Changes in apparent condition.
  3. Number of patients, sex and age, if known.
  4. Whether the person is conscious, breathing and alert, or is believed to have consumed drugs or alcohol.
  5. Whether the person is showing signs or symptoms of excited delirium or other agitated chaotic behavior.

Employees should stabilize the scene whenever practicable while awaiting the arrival of EMS.

## *Medical Aid and Response*

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Employees should not direct EMS personnel whether to transport the person for treatment.

### **465.4 TRANSPORTING ILL AND INJURED PERSONS**

Except in extraordinary cases where alternatives are not reasonably available, employees should not transport persons who are unconscious, who have serious injuries or who may be seriously ill. EMS personnel should be called to handle such transportation.

Officers should search any person who is in custody before releasing that person to EMS for transport.

An officer should accompany any person in custody during transport in an ambulance when requested by EMS personnel, when it reasonably appears necessary to provide security, when it is necessary for investigative purposes or when so directed by a Supervisor.

Employees should not provide emergency escort for medical transport or civilian vehicles.

### **465.5 PERSONS REFUSING EMS CARE**

If a person who is not in Probation Department custody refuses EMS care or refuses to be transported to a medical facility, an officer shall not force that person to receive care or be transported. However, employees may assist EMS personnel when EMS personnel determine the person lacks mental capacity to understand the consequences of refusing medical care or to make an informed decision and the lack of immediate medical attention may result in serious bodily injury or the death of the person.

In cases where mental illness may be a factor, the officer should consider proceeding with a 72-hour treatment and evaluation commitment (5150 commitment) process in accordance with the Mental Illness Commitments Policy.

If an officer believes, with Supervisor concurrence, that a person who is in custody requires EMS care and the person is refusing such care, the officer will require the person to be transported to the nearest medical facility. The officer will document the person's refusal, the reasons for the mandatory transportation to medical care and, if the officer deems the person sufficiently competent, obtain the person's written refusal.

Employees shall not sign refusal-for-treatment forms or forms accepting financial responsibility for treatment.

#### **465.5.1 SICK OR INJURED ARRESTEE**

If an arrestee appears ill or injured, or claims illness or injury, he or she should be medically cleared prior to booking. If the officer has reason to believe the arrestee is feigning injury or illness, the officer should contact a Supervisor, who will determine whether medical clearance must be obtained prior to booking.

If the jail or detention facility refuses to accept custody of an arrestee based on medical screening, the officer should note the name of the facility person refusing to accept custody and the reason for refusal, and should notify a Supervisor to determine the appropriate action.

## *Medical Aid and Response*

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Arrestees who appear to have a serious medical issue should be transported by ambulance. Officers shall not transport an arrestee to a hospital without a Supervisor's approval.

### **465.6 MEDICAL ATTENTION RELATED TO USE OF FORCE**

Specific guidelines for medical attention for injuries sustained from a use of force may be found in the Use of Force, Handcuffing and Restraints, Control Devices and Techniques, and Conducted Energy Device policies.

### **465.7 AUTOMATED EXTERNAL DEFIBRILLATOR (AED) USE**

Employees may use an AED only after receiving appropriate training from an approved public safety first aid and CPR course. (22 CCR 100014; 22 CCR 100017; 22 CCR 100018.)

#### **465.7.1 AED USER RESPONSIBILITY**

Employees who are issued AEDs for use in Department vehicles should check the AED at the beginning of the shift to ensure it is properly charged and functioning. Any AED that is not functioning properly will be taken out of service and given to the Training Officer who is responsible for ensuring appropriate maintenance.

Following use of an AED, the device shall be cleaned and/or decontaminated as required. The electrodes and/or pads will be replaced as recommended by the AED manufacturer.

Any employee who uses an AED should contact Dispatch as soon as possible and request response by EMS.

#### **465.7.2 AED REPORTING**

Any employee using an AED will complete an incident report detailing its use.

#### **465.7.3 AED TRAINING AND MAINTENANCE**

The Training Officer should ensure appropriate training and refresher training is provided to employees authorized to use an AED. A list of authorized employees and training records shall be made available for inspection by the local EMS agency (LEMSA) or EMS authority upon request. (22 CCR 100021; 22 CCR 100022; 22 CCR 100029.)

The Training Officer is responsible for ensuring AED devices are appropriately maintained and will retain records of all maintenance in accordance with the established records retention schedule. (22 CCR 100021.)

## Chapter 5 - Equipment

## Department Owned and Personal Property

### 500.1 PURPOSE AND SCOPE

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

### 500.2 CARE OF DEPARTMENTAL PROPERTY

Employees shall be responsible for the safekeeping, serviceable condition, proper care and use of Department property assigned or entrusted to them. An employee's intentional or gross negligent abuse or misuse of Department property may lead to discipline and may require the employee to pay the cost of repair or replacement.

- (a) Employees shall immediately report through their chain of command, any loss, damage to, or unserviceable condition of any Department-issued property or equipment assigned for their use.
- (b) The use of damaged or unserviceable Department property should be discontinued as soon as practical and replaced with comparable Department property as soon as available and following notice to a Supervisor.
- (c) Except when otherwise directed by competent authority or required by exigent circumstances, Department property shall only be used by those to whom it was assigned. Use should be limited to official purposes and in the capacity for which it was designed.
- (d) Department issued property, including clothing shall not be thrown away, sold, traded, donated, destroyed, or otherwise disposed of without proper authority.
- (e) In the event any Department property becomes damaged or unserviceable, no employee shall attempt to repair or replace the property without prior approval of a Supervisor.

### 500.3 FILING CLAIMS FOR PERSONAL PROPERTY

Claims for reimbursement for damage or loss of personal property must be made on the proper form. This form is submitted to the employee's immediate Supervisor. The Supervisor may require a separate written report of the loss or damage.

The Supervisor shall direct a memo to their Division Manager or in the case of Detention staff, the Superintendent of the Juvenile Detention Facility, which shall include the results of his or her review and whether the employee followed proper procedures. The Supervisor's report shall address whether reasonable care was taken to prevent the loss or damage.

## *Department Owned and Personal Property*

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Upon review by staff and a finding that no misconduct or negligence was involved, repair or replacement may be recommended by the Division Manager or Superintendent of the Juvenile Detention Facility who will then forward the claim to the Fiscal Division for processing.

The Department will not replace or repair items that are not reasonably required as a part of work.

### **500.3.1 REPORTING REQUIREMENT**

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

A written report shall be submitted within the time frame directed by the Supervisor to whom the verbal report is made.

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

Officers intentionally or unintentionally may cause damage to the real or personal property of another while performing their duties. Any officer who damages or causes to be damaged any real or personal property of another while performing any law enforcement function, regardless of jurisdiction, shall report it as provided below.

- (a) A verbal report shall be made to the officer's immediate Supervisor as soon as circumstances permit.
- (b) A written report shall be submitted within the time frame directed by the Supervisor to whom the verbal report is made.

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

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

These written reports, accompanied by the Supervisor's written report, shall promptly be forwarded to the Chief Probation Officer or designee.

## Personal Communication Devices

### 501.1 PURPOSE AND SCOPE

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

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

#### 501.1.1 POLICY

The Yolo County Probation Department allows employees to utilize Department-issued PCDs, and to possess personally owned PCDs in the workplace, subject to certain limitations (e.g. while on-duty in any secure area of the Juvenile Detention Facility). Employees shall utilize Department issued PCDs for all business of the Department and shall only use personally owned PCDs for Department business related matters as a last resort (e.g., Department-issued PCD is inoperable).

Any PCD used while on-duty, or used off-duty in any manner reasonably related to the business of the Department, will be subject to monitoring and inspection consistent with the standards set forth in this policy.

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

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

### 501.2 PRIVACY POLICY

Employees shall have no expectation of privacy with regard to any communication made with or stored in or through PCDs issued by the Department, and shall have no expectation of privacy in their location should the device be equipped with location detection capabilities. The use of any Department-issued or funded PCD, computer, tablet, Internet device, telephone service or other wireless service is without any expectation of privacy that the employee might otherwise have in any communication, including the content of any such communication. Communications or data reception on personal, password-protected web-based e-mail accounts and any other services are subject to monitoring if Department-issued equipment is used to access them. (Please see the Information Technology Policy for additional guidance)

# Yolo County Probation Department

## Policy Manual

### *Personal Communication Devices*

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#### 501.2.1 CALIFORNIA ELECTRONIC COMMUNICATIONS PRIVACY ACT (CALECPA)

No employee is authorized to be the sole possessor of a Department-issued PCD. Department-issued PCDs can be retrieved, reassigned, accessed or used by any employee as directed by a Supervisor without notice. Employee use of a Department-issued PCD and use of a personal PCD at work or for work-related business constitutes specific consent for access for Department purposes. Prior to conducting an administrative search of a PCD, Supervisors should consult legal counsel to ensure access is consistent with CalECPA. (Pen. Code §§ 1546,1546.1.)

#### **501.3 DEPARTMENT-ISSUED PCD**

Depending on an employee's assignment and the needs of the position, the Department may, at its discretion, issue or fund a PCD. Department-issued or funded PCDs are provided as a convenience to facilitate on-duty performance only. Such devices and the associated telephone number shall remain the sole property of the Department and shall be subject to inspection or monitoring (including all related records and content) at any time without notice and without cause.

Employees are not to utilize Department-issued PCD's off-duty for work-related matters unless specifically authorized by the Supervisor and/or designee.

#### **501.4 PERSONALLY OWNED PCD**

Employees may carry a personally owned PCD while on-duty, subject to the following conditions and limitations:

- (a) Carrying a personally owned PCD is a privilege, not a right.
- (b) The Department may prohibit the carrying/possession of a personally owned PCD at any time with reasonable notice to employees. Unless prohibited by the Department, carrying a personally owned PCD is at the sole discretion of the employee.
- (c) The Department accepts no responsibility for loss of or damage to a personally owned PCD.
- (d) Employees shall notify the Department promptly if their personal PCD that is connected to the Department's network is lost or stolen.
- (e) The PCD and any associated services shall be purchased, used and maintained solely at the employee's expense.
- (f) The device shall not be utilized to record or disclose any business-related information, including photographs, video, or the recording or transmittal of any information or material obtained or made accessible as a result of employment with the Department, without the express authorization of the Chief Probation Officer or designee.

#### **501.5 USE OF PERSONAL COMMUNICATION DEVICES**

The following protocols shall apply to all PCDs that are carried while on-duty, or used to conduct Department business:

- (a) All Department-issued and personally owned PCDs shall be carried in an approved carrier/holster or shall not be visible while the employee is in uniform.

# Yolo County Probation Department

## Policy Manual

### *Personal Communication Devices*

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- (b) A Department-issued or personally owned PCD may not be used to conduct personal business while on-duty, except for brief personal communications (e.g., informing family of extended hours).
- (c) Employees shall endeavor to limit their personal use of PCDs to authorized break times unless an emergency exists.
- (d) Employees may use a Department-issued PCD to communicate with other personnel in situations where the use of the radio is either impractical or not feasible. PCDs shall not be used as a substitute for, as a way to avoid, or in lieu of regular radio communications.
- (e) Officers are prohibited from taking pictures, video, or making audio recordings or making copies of any such picture or recording media with Department-issued or personally owned PCDs, unless it is directly related to official Department business.  
Disclosure of any such information to any third party through any means, without the express authorization of the Chief Probation Officer or designee, may result in disciplinary action up to and including termination.
- (f) Employees shall not access social networking sites for any purpose that is not official Department business.
- (g) Using Department-issued or personally owned PCDs to harass, threaten, coerce, or otherwise engage in inappropriate conduct with any other person is expressly prohibited. Any violation shall subject the employee to disciplinary action, up to and including termination. Any employee having knowledge of such prohibited conduct shall promptly notify a Supervisor.

#### **501.6 USE WHILE DRIVING**

The use of a PCD while driving can adversely affect safety, cause unnecessary distractions, and present a negative image to the public. Employees operating Department emergency vehicles should restrict the use of these devices to matters of an urgent nature, and should, where practicable, stop the vehicle at an appropriate location to use the PCD.

Employees who are operating Department vehicles that are not authorized emergency vehicles shall not use a PCD while driving unless the device is specifically designed and configured to allow hands-free use. In an emergency, a wireless phone may be used to place an emergency call to the Department or other emergency services agency. (Vehicle Code §§ 23123 and 23123.5.) Hands-free use should be restricted to business-related calls or calls of an urgent nature.

#### **501.7 SUPERVISORY RESPONSIBILITIES**

Supervisors shall ensure that employees under their command are provided with appropriate training on the use of PCDs consistent with this policy. Supervisors shall monitor, to the extent practicable, PCD use in the workplace, and take prompt corrective action if an employee is observed or reported to be improperly using a PCD. An investigation into improper conduct shall be promptly initiated when circumstances warrant.

## *Personal Communication Devices*

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If the need to contact an employee who is off-duty arises, Supervisors should consider delaying the contact, if practicable, until the employee is on-duty.

### **501.8 OFFICIAL USE**

Employees are reminded that PCDs are not secure devices and conversations may be intercepted or overheard. Caution must always be exercised when utilizing PCDs to ensure that sensitive information is not inadvertently transmitted. As soon as reasonably possible, employees shall conduct sensitive or private communications on a land-based or other secure Department communications network.

The following situations are examples of when the use of a PCD may be appropriate:

- (a) Barricaded suspects.
- (b) Hostage situations.
- (c) Mobile Command Post.
- (d) Catastrophic disasters, such as plane crashes, earthquakes, floods, etc..
- (e) Major political or community events.
- (f) Investigative stakeouts.
- (g) Emergency contact with an allied agency or allied agency field unit.
- (h) When immediate communication is needed and the use of the radio is not available or appropriate, and other means of communication are not readily available.

## Vehicle Maintenance

### 502.1 PURPOSE AND SCOPE

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

#### 502.1.1 PREVENTATIVE MAINTENANCE

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

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

### 502.2 DEFECTIVE VEHICLES

When a Department vehicle becomes inoperative or in need of repair that affects the safety of the vehicle, that vehicle shall be removed from service for repair. The employee who observes the need for repairs will notify a Supervisor immediately.

#### 502.2.1 DAMAGE OR POOR PERFORMANCE

Vehicles that may have been damaged, or perform poorly shall be removed from service for inspections and repairs as soon as practicable.

### 502.3 VEHICLE REFUELING

Absent emergency conditions or Supervisor approval, officers driving Department vehicles shall make reasonable efforts to return vehicles with more than one-half tank of fuel. Vehicles shall only be refueled at the authorized location(s) if available.

### 502.4 WASHING OF VEHICLES

Department employees are encouraged to keep Department vehicles clean at all times, and weather conditions permitting, shall be washed as necessary to enhance their appearance. Unit Supervisors shall make arrangements to have vehicles washed by an authorized car wash vendor.

Employees using a vehicle shall remove any trash or debris at the end of their use. Confidential material or contraband should never be left in the vehicle at the end of shift.

## Vehicle Use

### 504.1 USE OF PRIVATE VEHICLES

The use of privately owned vehicles for official County business is allowed when the use of a Department vehicle is not feasible and the use has been pre-approved by the Chief Probation Officer or his designee.

### 504.2 PURPOSE & SCOPE

The purpose of this policy is to establish a system of accountability to ensure Department vehicles are used appropriately. This policy provides guidelines for on and off-duty use of Department vehicles and shall not be construed to create or imply any contractual obligation by the Yolo County Probation Department to provide assigned take-home vehicles. The Yolo County Probation Department uses County-owned motor vehicles in a variety of applications operated by Department personnel. This policy is established to support the existing Yolo County vehicle policy regarding County-owned vehicles.

### 504.3 POLICY

The Yolo County Probation Department provides vehicles for Department-related business and may assign vehicles based on a determination of operational efficiency, economic impact to the Department, requirements for tactical deployments and other considerations.

### 504.4 USE OF COUNTY VEHICLES

All Department employees, when using County vehicles, shall:

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

#### 504.4.1 INSPECTIONS

Employees shall be responsible for inspecting the interior and exterior of any assigned vehicle before taking the vehicle into service and at the conclusion of their shifts. Any previously unreported damage, mechanical problems, unauthorized contents or other problems with the vehicle shall be promptly reported to a Supervisor and documented as appropriate.

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

When transporting any probationer or arrestee, the transporting officer shall search all areas of the vehicle that are accessible by the person before and after that person is transported.

# Yolo County Probation Department

## Policy Manual

### *Vehicle Use*

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All Department vehicles are subject to inspection and/or search at any time by a Supervisor without notice and without cause. No employee assigned to or operating such vehicle shall be entitled to any expectation of privacy with respect to the vehicle or its contents.

#### 504.4.2 SECURITY AND UNATTENDED VEHICLES

Unattended vehicles should be locked and secured at all times. No key should be left in the vehicle except when it is necessary that the vehicle be left running. Officers who exit a vehicle rapidly in an emergency situation or to engage in a foot pursuit must balance the need to exit the vehicle quickly with the need to secure the vehicle.

Officers shall ensure all weapons are secured while the vehicle is unattended (see Firearms Policy).

#### 504.4.3 KEYS

Employees approved to operate County vehicles shall check out the vehicle for use by filling out the check out sheet specific to the vehicle they will be using, noting the date and time the vehicle was checked out, the destination and the employee who is checking out the vehicle. At that time, the employee will take possession of the key to the vehicle. After use, the employee shall check the vehicle back in noting the time returned and what level the gas gauge of the vehicle indicates. Upon vehicle check-in the vehicle key shall be returned to the vehicle check-out board.

Employees shall not duplicate keys. The loss of a key shall be reported promptly in writing through the employee's chain of command.

#### 504.4.4 INTOXICANTS

Employees who have consumed alcohol or other substance or medication that can impair a driver are prohibited from operating any Department vehicle while under the influence of such substance or medication.

#### 504.4.5 PARKING

Except when responding to an emergency or when urgent Department-related business requires otherwise, employees driving Department vehicles should obey all parking regulations at all times.

Department vehicles should be parked in designated Department parking spaces/stalls. Employees shall not park privately owned vehicles in spaces/stalls assigned to Department vehicles or in other areas of the parking lot that are not so designated unless authorized by a Supervisor.

#### 504.4.6 ACCESSORIES AND/OR MODIFICATIONS

There shall be no modifications, additions or removal of any equipment or accessories without written permission from Department Management.

#### 504.4.7 CIVILIAN EMPLOYEE USE

Non-sworn employees using marked Probation Department vehicles shall check the vehicle for any weapons or contraband. If weapons or contraband are found, the non-sworn employee

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shall notify a sworn officer before driving the vehicle. Non-sworn employees shall not operate any overhead emergency lights of any vehicle.

### **504.4.8 AUTHORIZED PASSENGERS**

Employees operating Department vehicles shall not permit persons other than County personnel, persons required to be conveyed in the performance of duty, or as otherwise authorized to ride as passengers in the vehicle.

### **504.5 INDIVIDUAL EMPLOYEE ASSIGNMENT TO VEHICLES**

Department vehicles may be assigned to individual officers at the discretion of the Chief Probation Officer. Vehicles may be assigned for on-duty and/or take-home use. Assigned vehicles may be changed at any time. Permission to take home a vehicle may be withdrawn at any time. The assignment of vehicles may be suspended when the officer is unable to perform his or her regular assignment.

### **504.6 PREREQUISITES FOR PRIVATE VEHICLE USE**

Prerequisites for private vehicle use include:

- a. Prior authorization from Department Management.
- b. Possession of a current valid California driver's license.
- c. Public liability/property damage insurance with policy limits not less than those set forth in California Vehicle Code Section 16450 et. seq.

### **504.7 REIMBURSEMENT CLAIMS**

Employees or volunteers authorized to use their private vehicles for County business can claim reimbursement to the extent authorized by either the applicable provisions of the County's Personnel, Policies, and Practices Resolution, or the applicable provisions of any memorandum of understanding, and at the established mileage rates as established by the County of Yolo.

### **504.8 UNSCHEDULED TAKE-HOME USE**

Circumstances may arise where Department vehicles must be used by employees to commute to and from a work assignment. Employees may take home Department vehicles only with prior approval of the Chief Probation Officer or his or her designee and shall meet the following criteria:

- a. The circumstances are unplanned and were created by the needs of the Department.
- b. Other reasonable transportation options are not available.
- c. The employee lives within a reasonable distance (generally not to exceed a 60-minute drive time) of the Yolo County Probation Department.
- d. Off-street parking will be available at the employee's residence.
- e. Vehicles will be locked when not attended.

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- f. All firearms will be removed from the interior of the vehicle and properly secured in the residence when the vehicle is not attended.

### **504.9 TAKE HOME VEHICLES**

Assignment of take-home vehicles shall be based on the location of the employee's residence, the nature of the employee's duties, job description and essential functions, and employment or appointment status. Residence in the County of Yolo is a prime consideration for assignment of a take-home vehicle. Employees who reside outside the County of Yolo may be required to secure the vehicle at a designated location at the discretion of the Chief Probation Officer.

Department employees shall sign a take-home vehicle agreement that outlines certain standards, including, but not limited to, how the vehicle shall be used, where it shall be parked when the employee is not on-duty vehicle maintenance responsibilities and employee enforcement actions.

Employees are cautioned that under federal and local tax rules, personal use of a County vehicle may create an income tax liability for the employee. Questions regarding tax rules should be directed to the employee's tax adviser.

Criteria for use of take-home vehicles include the following:

- a. Vehicles shall only be used for work-related purposes and shall not be used for personal errands or transports, unless special circumstances exist and the Chief Probation Officer or designee gives authorization.
- b. Vehicles may be used to transport the employee to and from the employee's residence for work-related purposes.
- c. Vehicles will not be used when off-duty except.
  - 1. When the employee has received permission from the Chief Probation Officer or designee.
  - 2. When the vehicle is being used by employees who are in on-call positions.
- d. While operating the vehicle, authorized employees will carry and have accessible their duty firearms and be prepared to perform any function they would be expected to perform while on-duty.
- e. Unattended vehicles are to be locked and secured at all times.
  - 1. No key should be left in the vehicle except when it is necessary that the vehicle be left running.
  - 2. All weapons shall be secured while the vehicle is unattended.
  - 3. All Department identification, portable radios and equipment should be secured.
- f. Vehicles are to be parked off-street at the employee's residence unless prior arrangements have been made with the Chief Probation Officer or the authorized designee. If the vehicle

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is not secured inside a locked garage, all firearms shall be removed and properly secured in the residence. (see Firearms Policy regarding safe storage of firearms at home)

g. When an employee will be away (e.g., on vacation) for periods exceeding one week, the take-home vehicle is to be secured at the employee's residence or the appropriate Department facility.

1. If the vehicle remains at the residence of the employee, the Department shall have access to the vehicle.

2. If the employee is unable to provide access to the vehicle, it shall be parked at the Department.

h. The employee is responsible for arranging the care and maintenance of the vehicle with their Supervisor or Fleet Services.

## Personal Protective Equipment

### 505.1 PURPOSE AND SCOPE

The Yolo County Probation Department endeavors to protect employees by supplying certain PPE to employees as provided in this policy.

This policy identifies the different types of personal protective equipment (PPE) provided by the Department as well as the requirements and guidelines for the use of PPE.

This policy does not address ballistic vests or protection from communicable disease, which are covered by the Body Armor and Communicable Diseases policies.

#### 505.1.1 DEFINITIONS

**Personal Protective Equipment (PPE)** - Equipment that protects a person from serious workplace injuries or illnesses resulting from contact with chemical, radiological, physical, electrical, mechanical or other workplace hazards.

### 505.2 OFFICER RESPONSIBILITIES

Employees are required to use PPE as provided in this policy and pursuant to their training.

Employees are responsible for proper maintenance and storage of issued PPE. PPE should be stored in an appropriate location so that it is available when needed.

Any employee who identifies hazards in the workplace is encouraged to use the procedures in the Illness and Injury Prevention Policy to recommend new or improved PPE or additional needs for PPE.

### 505.3 HEARING PROTECTION

Approved hearing protection shall be used by officers during firearms training.

Hearing protection shall meet or exceed the requirements provided in 8 CCR 5098.

### 505.4 EYE PROTECTION

Approved eye protection,, shall be used by officers during firearms training. Officers shall ensure their eye protection does not interfere with the fit of their hearing protection.

The Rangemaster shall ensure eye protection meets or exceeds the requirements provided in 8 CCR 3382.

### 505.5 HEAD AND BODY PROTECTION

Officers who may encounter riots or riot type atmospheres (in or out of custody) or who conduct high-risk cell extractions should be provided ballistic head protection with an attachable face shield.

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## *Personal Protective Equipment*

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Padded body protection consisting of chest, arm, leg and groin protection should be provided as required by the Department or any collective bargaining agreement.

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## Cash Handling, Security and Management

### 506.1 PURPOSE AND SCOPE

This policy provides guidelines to ensure Department employees handle cash appropriately in the performance of their duties.

### 506.2 POLICY

It is the policy of the Yolo County Probation Department to document cash transactions and maintain accurate records of cash transactions to protect the integrity of Department operations and ensure the public trust.

\* Reference Cash Revolving Funds and Cash Equivalent Procedures

### 506.3 PETTY CASH FUNDS

The Chief Probation Officer shall designate a person as the fund manager responsible for maintaining and managing the petty cash fund.

Each petty cash fund requires the creation and maintenance of an accurate and current transaction ledger and the filing of invoices, receipts, cash transfer forms and expense reports by the fund manager.

### 506.4 PETTY CASH TRANSACTIONS

The fund manager shall document all transactions on the ledger and any other appropriate forms. Each person participating in the transaction shall sign or otherwise validate the ledger, attesting to the accuracy of the entry. Transactions should include the filing of an appropriate receipt, invoice or cash transfer form. Transactions that are not documented by a receipt, invoice or cash transfer form require an expense report.

### 506.5 PETTY CASH AUDITS

The fund manager shall perform an audit no less than once every month. The audit requires that the fund manager and at least one Management member, selected by the Chief Probation Officer, review the transaction ledger and verify the accuracy of the accounting. The fund manager and the participating employee shall sign or otherwise validate the ledger attesting to the accuracy of all documentation and fund accounting. A discrepancy in the audit requires documentation by those performing the audit and an immediate reporting of the discrepancy to the Chief Probation Officer.

Transference of fund management to another employee shall require a separate petty cash audit and involve a Management member.

A separate audit of each petty cash fund should be completed on a random date, approximately once each year, by the Chief Probation Officer or designee.

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### *Cash Handling, Security and Management*

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#### **506.6 ROUTINE CASH HANDLING**

Employees who routinely accept payment for Department services shall discharge those duties in accordance with the procedures established for those tasks.

#### **506.7 OTHER CASH HANDLING**

Employees of the Department who, within the course of their duties, are in possession of cash that is not their property or that is outside their defined cash-handling responsibilities shall, as soon as practicable, verify the amount, summon another employee to verify their accounting, and process the cash for safekeeping or as evidence or found property.

Possession of cash in excess of \$1000 requires immediate notification of a Supervisor. Each employee involved in this process shall complete an appropriate report or record entry.

## **Chapter 6 - Support Services**

# Findings of Factual Innocence and Certificates of Release

## 602.1 DETERMINATION OF FACTUAL INNOCENCE

In any case where a person has been arrested by officers of the Yolo County Probation Department and no accusatory pleading has been filed, the person arrested may petition the Department to destroy the related arrest records. Petitions should be forwarded to the Chief Probation Officer or designee. The Chief Probation Officer or designee should contact the prosecuting attorney promptly and request a written opinion as to whether the petitioner is factually innocent of the charges. (Pen. Code § 851.8.) Factual innocence means the accused person did not commit the crime.

Upon receipt of a written opinion from the prosecuting attorney affirming factual innocence, the Chief Probation Officer or designee should forward the petition to the County Counsel for review. After such review and consultation with the County Counsel, the Chief Probation Officer or designee shall decide whether a finding of factual innocence is appropriate.

Upon determination that a finding of factual innocence is appropriate, the Chief Probation Officer or designee shall ensure that the arrest record and petition are sealed for later destruction and the required notifications are made to the petitioner and the California DOJ and other law enforcement agencies. (Pen. Code § 851.8.)

The Chief Probation Officer or designee should respond to a petition with the Probation Department's decision within 60 days of receipt. Responses should include only the decision of the Probation Department, not an explanation of the analysis leading to the decision.

## 602.2 ARREST WITHOUT FILING OF ACCUSATORY PLEADING

The Chief Probation Officer or designee should ensure a process is in place for when an individual is arrested and released and no accusatory pleading is filed so that the following occurs (Pen. Code §§ 849.5 and 851.6):

- (a) The individual is issued a certificate describing the action as a detention. \* Reference Certificate of Release
- (b) All references to an arrest are deleted from the arrest records of the Probation Department and the record reflects only a detention.
- (c) The Bureau of Criminal Identification and Investigation of the DOJ is notified.

## Records Maintenance and Release

### 605.1 PURPOSE AND SCOPE

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

### 605.2 POLICY

The Yolo County Probation Department is committed to providing public access to records in a manner that is consistent with the California Public Records Act. (Gov. Code § 6250 et seq.)

### 605.3 CUSTODIAN OF RECORDS RESPONSIBILITIES

The Chief Probation Officer shall designate a Custodian of Records. The responsibilities of the Custodian of Records include but are not limited to:

- (a) Managing the records management system for the Department, including the retention, archiving, release, and destruction of Department public records.
- (b) Maintaining and updating the Department records retention schedule including:
  1. Identifying the minimum length of time the Department must keep records.
  2. Identifying the Department division responsible for the original record.
- (c) Establishing rules regarding the inspection and copying of Department public records as reasonably necessary for the protection of such records. (Gov. Code § 6253.)
- (d) Identifying records or portions of records that are confidential under state or federal law and not open for inspection or copying.
- (e) Establishing rules regarding the processing of subpoenas for the production of records.
- (f) Ensuring a current schedule of fees for public records as allowed by law is available. (Gov. Code § 6253.)
- (g) Determining how the Department's website may be used to post public records in accordance with Government Code section 6253.
- (h) Ensuring that current Department standards, policies, practices, operating procedures and education and training materials are posted on the Department website in accordance with Penal Code section 13650.
- (i) Ensuring that public records posted on the Department website meet the requirements of Government Code section 6253.10 including but not limited to posting in an open format where a record may be retrieved, downloaded, indexed, and searched by a commonly used internet search application.
- (j) Ensuring that a list and description, when applicable, of enterprise systems (as defined by Gov. Code § 6270.5) is publicly available upon request and posted in a prominent location on the Department's website.

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### *Records Maintenance and Release*

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#### 605.3.1 ADULT PROBATION CASE FILES

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

#### 605.3.2 ADULT PROBATION REPORTS

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

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

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

#### 605.3.3 JUVENILE PROBATION RECORDS

Juvenile Probation records, including all petitions filed, reports of the Probation Officer, and all other documents contained in the file that are submitted to the Court may be inspected but not copied by the following:

- (a) Court personnel.
- (b) The minor who is the subject of the proceeding.
- (c) The minor's parents or guardian.
- (d) The attorneys for the parties.
- (e) District Attorney.
- (f) Child Protective Services.
- (g) School officials pursuant to the provisions of Welfare and Institutions Code section 827(b)(1) and section 827(e).
- (h) Any other person designated in Welfare and Institutions Code section 827.

#### 605.3.4 PERSONNEL RECORDS

Personnel records, medical records and similar records that involve personal privacy shall not be made public except as required by law or by court order. (Gov. Code § 6254(c).)

Peace officer personnel records are deemed confidential and shall not be made public or otherwise released to unauthorized individuals or entities absent a valid court order. (Pen. Code § 832.7 et seq.; Evid. Code §§ 1043 and 1045.)

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

#### **605.4 PROCESSING REQUESTS FOR PUBLIC RECORDS**

Any Department employee who receives a request for any record shall route the request to the Custodian(s) of Records or the authorized designee.

##### **605.4.1 REQUESTS FOR RECORDS**

Any member of the public, including the media and elected officials, may access unrestricted records of this Department, during regular business hours by submitting a written and signed request that reasonably describes each record sought and paying any associated fees. (Gov. Code § 6253.)

The processing of requests for any record is subject to the following. (Gov. Code § 6253):

- (a) The Department is not required to create records that do not exist.
- (b) Victims of an incident or their authorized representative shall not be required to show proof of legal presence in the United States to obtain Department records or information. If identification is required, a current driver's license or identification card issued by any state in the United States, a current passport issued by the United States or a foreign government with which the United States has a diplomatic relationship or current Matricula Consular card is acceptable. (Gov. Code § 6254.30.)
- (c) A response to the request or the reason for non-disclosure will be provided promptly, but no later than 10 days from the date of request, unless unusual circumstances preclude doing so. If more time is needed, an extension of up to 14 additional days may be authorized by the Custodian(s) of Records or the authorized designee. If an extension is authorized, the Department shall provide the requester timely written notice that includes the reason for the extension and the anticipated date of the response.

1. When the request does not reasonably describe the records sought, the Custodian(s) of Records shall assist the requester in making the request focused and effective in a way to identify the records or information that would be responsive to the request including providing assistance for overcoming any practical basis for denying access to the records or information. The Custodian(s) of Records shall also assist in describing the information technology and physical location in which the record exists. (Gov. Code § 6253.1.)

2. If the record requested is available on the Department website, the requester may be directed to the location on the website where the record is posted. If the requester is unable to access or reproduce the record, a copy of the record shall be promptly provided.

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d. Upon request, a record shall be provided in an electronic format utilized by the Department. Records shall not be provided only in electronic format unless specifically requested. (Gov. Code § 6253.9.)

e. When a record contains material with release restrictions and material that is not subject to release restrictions, the restricted material shall be redacted and the unrestricted material released.

1. A copy of the redacted release should be maintained in the case file for proof of what was actually released and as a place to document the reasons for the redactions. If the record is audio or video, a copy of the redacted audio/video release should be maintained in the Department-approved media storage system and a notation should be made in the case file to document the release and the reasons for the redacted portions.

f. If a record request is denied in whole or part, the requester shall be provided a written response that includes the statutory exemption for withholding the record or facts that the public interest served by nondisclosure outweighs the interest served by disclosure. (Gov. Code § 6255.) The written response shall also include the names, titles or positions of each person responsible for the denial.

#### **605.5 RELEASE RESTRICTIONS**

Unless otherwise provided by law, any record may be withheld from disclosure if the public interest in withholding such record clearly outweighs the public interest in disclosure.

Examples of records that may be withheld include:

- (a) Personal identifying information, including an individual's photograph; Social Security and driver identification numbers; name, address, and telephone number; and medical or disability information that is contained in any driver license record, motor vehicle record, or any Department record including traffic collision reports, are restricted except as authorized by the Department, and only when such use or disclosure is permitted or required by law to carry out a legitimate law enforcement purpose. (18 USC § 2721; 18 USC § 2722.)
- (b) Social Security numbers. (Gov. Code § 6254.29.)
- (c) Personnel records, medical records, and similar records, the release of which would involve an unwarranted invasion of personal privacy. (Gov. Code § 6254; Pen. Code § 832.7; Pen. Code § 832.8; Evid. Code § 1043 et seq.)
  - 1. Peace officer personnel records that are deemed confidential shall not be made public or otherwise released to unauthorized individuals or entities absent a valid court order.
  - 2. The identity of any officer subject to any criminal or administrative investigation shall not be released without the consent of the involved officer, prior approval of the Chief Probation Officer, or as required by law.
- (d) Victim information that may be protected by statutes, including victims of certain crimes who have requested that their identifying information be kept confidential, victims who

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are minors, and victims of certain offenses (e.g., sex crimes or human trafficking, Pen. Code § 293.) Addresses and telephone numbers of a victim or a witness to any arrested person or to any person who may be a defendant in a criminal action shall not be disclosed, unless it is required by law. (Gov. Code § 6254; Pen. Code § 841.5.)

1. Victims of certain offenses (e.g., domestic violence, sexual assault, stalking, human trafficking, adult abuse) or their representatives shall be provided, upon request and without charge, one copy of all incident report face sheets, one copy of all incident reports, or both, pursuant to the requirements and time frames of Family Code 6228.
- (e) Video or audio recordings created during the commission or investigation of the crime of rape, incest, sexual assault, domestic violence, or child abuse that depicts the face, intimate body part, or voice of a victim of the incident except as provided by Government Code section 6254.4.5.
  - (f) Information involving confidential informants, intelligence information, information that would endanger the safety of any person involved, or information that would endanger the successful completion of the investigation or a related investigation. This includes analysis and conclusions of investigating officers. (Evid. Code § 1041; Gov. Code § 6254.)
    1. Absent a statutory exemption to the contrary or other lawful reason to deem information from reports confidential, information from unrestricted agency reports shall be made public as outlined in Government Code section 6254(f).
  - (g) Local criminal history information including but not limited to arrest history and disposition, and fingerprints shall only be subject to release to those agencies and individuals set forth in Penal Code section 13300.
    1. All requests from criminal defendants and their authorized representatives (including attorneys) shall be referred to the District Attorney, County Counsel, or the courts pursuant to Penal Code section 1054.5.
  - (h) Certain types of reports involving but not limited to child abuse and molestation (Pen. Code § 11167.5), elder and dependent abuse (W & I Code § 15633), and juveniles. (W & I Code § 827.)
  - (i) Sealed autopsy and private medical information concerning a murdered child with the exceptions that allow dissemination of those reports to law enforcement agents, prosecutors, defendants, or civil litigants under state and federal discovery laws. (Code of Civil Procedure §130.)
  - (j) Information contained in applications for licenses to carry firearms or other files that indicates when or where the applicant is vulnerable or which contains medical or psychological information. (Gov. Code § 6254.)
  - (k) Traffic collision reports (and related supplemental reports) shall be considered confidential and subject to release only to the California Highway Patrol, Department of Motor Vehicles (DMV), other law enforcement agencies, and those individuals and their authorized representatives set forth in Vehicle Code section 20012.

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- (l) Any record created exclusively in anticipation of potential litigation involving this Department. (Govt. Code § 6254.)
- (m) Any memorandum from legal counsel.
- (n) Records relating to the security of the Department's electronic technology systems. (Gov. Code § 6254.19.)
- (o) A record of a civilian complaint, or the investigations, findings, or dispositions of that complaint if the complaint is frivolous, as defined by Code of Civil Procedure § 128.5, or if the complaint is unfounded. (Pen. Code § 832.7 (b)(8).)
- (p) Information connected with juvenile court proceedings or the detention or custody of a juvenile. Federal officials may be required to obtain a court order to obtain certain juvenile information. (W & I Code § 827.9; W & I Code § 831.)

Any other record not addressed in this policy shall not be subject to release where such record is exempt or prohibited from disclosure pursuant to state or federal law, including but not limited to provisions of the Evidence Code relating to privilege. (Gov. Code §6254.)

### **605.6 SUBPOENAS AND DISCOVERY REQUESTS**

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

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

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

### **605.7 RELEASE OF INFORMATION TO CRIME VICTIMS**

Crime victims have a constitutional right to be included in the Court process during the adjudication of their case. Probation officers have certain statutory obligations in felony cases to notify victims of their right to appear at sentencing hearings, their right to make a statement to the Court, the right to restitution and/or civil recovery for losses, and the right to review the recommendation of the probation officer. All efforts are to be made to coordinate with the District Attorney's Victim Witness program to secure services as deemed appropriate.

Given the general rights of crime victims, there is an inherent right to certain information relating to the offense and its adjudication. Thus, crime victims may be given the address of probationers if their interest is to pursue civil litigation. The probation officer handling the respective case should carefully screen such requests. The crime victim may be furnished with dispositional information regarding a case if it has impact on restitution or any potential danger that he or she may face.

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#### **605.8 RELEASE OF INFORMATION DURING TELEPHONE CALLS**

Confidential information should not be released over the telephone unless the the caller has the need to know and the right to know. Employees who receive telephone calls asking about a person's probation status should transfer the call to the assigned officer or Supervisor to verify the caller's identity and need and right to know.

#### **605.9 RELEASE OF INFORMATION - DUTY TO WARN**

An officer who learns of a credible threat of violence made by a probationer under this Department's supervision and directed towards a foreseeable and identifiable victim or group of victims, must document the date, circumstances and substance of the threat, and report the threat immediately to the officer's Supervisor and the Chief Probation Officer or designee for consideration of further action by the Department.. If the Department believes there is an imminent threat of harm to a specific individual or group of individuals based on the probationer's threat, the Department in consultation with the Office of County Counsel shall determine the need to report the threat to the relevant law enforcement agencies and attempt to warn the intended victims of the threat.

#### **605.10 RELEASE OF INFORMATION WITH A SIGNED WAIVER**

A probationer or former probationer's Criminal History may be released when the probationer or former probationer has signed a waiver designating the release of his or her criminal record and/ or probation status to a specific person or entity **and** where such release would assist in furthering the rehabilitation of the probationer or former probationer.

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

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

#### **605.11 RELEASED RECORDS TO BE MARKED**

Each page of any written record released pursuant to this policy should be stamped in a colored ink or otherwise marked to indicate the Department's name and to whom the record was released.

Each audio/video recording released should include the Department's name and to whom the record was released.

#### **605.12 SEALED RECORD ORDERS**

Sealed record orders received by the Department shall be reviewed for appropriate action by the Custodian of Records. The Custodian of Records shall seal such records as ordered by the court. Records may include but are not limited to a record of arrest, investigation, detention, or conviction. Once the record is sealed, members shall respond to any inquiry as though the record did not exist. (Pen. Code § 851.8; W & I Code § 781.)

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When an arrest record is sealed pursuant to Penal Code section 851.87, Penal Code section 851.90, Penal Code section 851.91, Penal Code section 1000.4, or Penal Code section 1001.9, the Custodian of Records shall ensure that the required notations on local summary criminal history information and police investigative reports are made. Sealed records may be disclosed or used as authorized by Penal Code section 851.92.

#### **605.13 SECURITY BREACHES**

The Custodian of Records shall ensure notice is given anytime there is a reasonable belief an unauthorized person has acquired either unencrypted personal identifying information or encrypted personal information along with the encryption key or security credential stored in any Department information system. (Civ. Code § 1798.29.)

Notice shall be given as soon as reasonably practicable to all individuals whose information may have been acquired. The notification may be delayed if the Department determines that notification will impede a criminal investigation or any measures necessary to determine the scope of the breach and restore the reasonable integrity of the data system.

For the purposes of this requirement, personal identifying information includes an individual's first name or first initial and last name in combination with any one or more of the following:

- Social Security number
- Driver license number, California identification card number, tax identification number, passport number, military identification number, or other unique identification number issued on a government document commonly used to verify the identity of a specific individual
- Account number or credit or debit card number, in combination with any required security code, access code or password that would permit access to an individual's financial account
- Medical information
- Health insurance information
- A username or email address, in combination with a password or security question and answer that permits access to an online account
- Information or data collected by Automated License Plate Reader (ALPR) technology
- Unique biometric data

#### **605.13.1 FORM OF NOTICE**

- (a) The notice shall be written in plain language, be consistent with the format provided in Civil Code section 1798.29 and include, to the extent possible, the following:

1. The date of the notice.
2. Name and contact information for the Department.

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3. A list of the types of personal information that were or are reasonably believed to have been acquired.
4. The estimated date or date range within which the security breach occurred.
5. Whether the notification was delayed as a result of a law enforcement investigation.
6. A general description of the security breach.
7. The toll-free telephone numbers and addresses of the major credit reporting agencies, if the breach exposed a Social Security number or a driver license or California identification card number.

b. The notice may also include information about what the Department has done to protect individuals whose information has been breached and may include information on steps that the person whose information has been breached may take to protect him/herself. (Civ. Code § 1798.29.)

c. When a breach involves an online account, and only a username or email address in combination with either a password or security question and answer that would permit access to an online account, and no other personal information has been breached. (Civ. Code § 1798.29)

1. Notification may be provided electronically or in another form directing the person to promptly change either his/her password or security question and answer, as applicable, or to take other appropriate steps to protect the online account with the Department in addition to any other online accounts for which the person uses the same username or email address and password or security question and answer.

2. When the breach involves an email address that was furnished by the Department, notification of the breach should not be sent to that email address but should instead be made by another appropriate medium as prescribed by Civil Code section 1798.29.

### 605.13.2 MANNER OF NOTICE

(a) Notice may be provided by one of the following methods (Civ. Code § 1798.29):

1. Written notice.
2. Electronic notice if the notice provided is consistent with the provisions regarding electronic records and signatures set forth in 15 USC section 7001.
3. Substitute notice if the cost of providing notice would exceed \$250,000, the number of individuals exceeds 500,000 or the Department does not have sufficient contact information. Substitute notice shall consist of all of the following:
  - (a) Email notice when the Department has an email address for the subject person.
  - (b) Conspicuous posting of the notice on the Department's webpage for a minimum of 30 days.

## *Records Maintenance and Release*

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4. Notification to major statewide media and the California Information Security Office within the California Department of Technology.
- (b) If a single breach requires the Department to notify more than 500 California residents, the Department shall electronically submit a sample copy of the notification, excluding any personally identifiable information, to the Attorney General.

### **605.14 RELEASE OF AUDIO OR VIDEO RECORDINGS RELATED TO CRITICAL INCIDENTS**

Video and audio recordings related to critical incidents shall be released upon a proper public record request and subject to delayed release, redaction, and other release restrictions in accordance with Government Code section 6254(f)(4).

For purposes of this section, a video or audio recording relates to a critical incident if it depicts an incident involving the discharge of a firearm at a person by an officer, or depicts an incident in which the use of force by an officer against a person resulted in death or in great bodily injury. (as defined by Pen. Code § 243(f)(4)) (Gov. Code § 6254(f)(4).)

The Custodian of Records shall work as appropriate with the Chief Probation Officer in consultation with County Counsel in determining what recordings, if any, may qualify for disclosure when a request for a recording is received and if the requested recording is subject to delay from disclosure, redaction, or other release restrictions.

#### **605.14.1 DELAY OF RELEASE**

Disclosure of critical incident recordings during active criminal or administrative investigations may be delayed as follows if disclosure would substantially interfere with the investigation, such as by endangering the safety of a witness or a confidential source:

- (a) Disclosure may be delayed up to 45 days from the date the Department knew or reasonably should have known about the incident.
- (b) Delay of disclosure may continue after the initial 45 days and up to one year if the Department demonstrates that disclosure would substantially interfere with the investigation.
- (c) Any delay of disclosure longer than one year must be supported by clear and convincing evidence that disclosure would substantially interfere with the investigation. (Gov. Code § 6254(f)(4).)

#### **605.14.2 NOTICE OF DELAY OF RELEASE**

When there is justification to delay disclosure of a recording, the Custodian of Records shall provide written notice to the requester as follows (Gov. Code § 6254(f)(4)):

1. During the initial 45 days, the Custodian of Records shall provide the requester with written notice of the specific basis for the determination that disclosure would substantially interfere with the investigation. The notice shall also include the estimated date for the disclosure.
2. When delay is continued after the initial 45 days, the Custodian of Records shall promptly provide the requester with written notice of the specific basis for the determination that the

## *Records Maintenance and Release*

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interest in preventing interference with an active investigation outweighs the public interest in the disclosure, and the estimated date for the disclosure. The Custodian of Records should work with the Chief Probation Officer in reassessing the decision to continue withholding a recording and notify the requester every 30 days.

Recordings withheld shall be disclosed promptly when the specific basis for withholding the recording is resolved.

### 605.14.3 REDACTION

If the Custodian of Records, in consultation with the Chief Probation Officer or authorized designee, determines that specific portions of the recording may violate the reasonable expectation of privacy of a person depicted in the recording, the Department should use redaction technology to redact portions of recordings made available for release.

If any portions of a recording are withheld to protect the reasonable expectation of privacy of a person depicted in the recording, the Custodian of Records shall provide in writing to the requester the specific basis for the expectation of privacy and the public interest served. (Gov. Code § 6254(f)(4).)

### 605.14.4 RECORDINGS WITHHELD FROM PUBLIC DISCLOSURE

Unless exempt from disclosure for other reasons set forth above, If the reasonable expectation of privacy of a person depicted in the recording cannot adequately be protected through redaction, and that interest outweighs the public interest in disclosure, the Department may withhold the recording from the public, except that the recording, either redacted or un-redacted, shall be disclosed promptly, upon request, to any of the following (Gov. Code § 6254(f)(4)):

- (a) The person in the recording whose privacy is to be protected, or his/her authorized representative.
- (b) If the person is a minor, the parent or legal guardian of the person whose privacy is to be protected.
- (c) If the person whose privacy is to be protected is deceased, an heir, beneficiary, designated immediate family member, or authorized legal representative of the deceased person whose privacy is to be protected.

If the Department determines that this disclosure would substantially interfere with an active criminal or administrative investigation, the Custodian of Records shall provide the requester with written notice of the specific basis for the determination and the estimated date of disclosure. (Gov. Code § 6254(f)(4).)

The Department may continue to delay release of the recording from the public for 45 days with extensions as provided in this policy. (Gov. Code § 6254(f)(4)(A).)

## Protected Information

### 609.1 PURPOSE AND SCOPE

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

### 609.2 AUTHORITY

This policy is established pursuant to the mandate of the Regulations Regarding Security of Criminal Offender Record Information in California, Title 11, California Code of Regulations. Other authority includes Penal Code section 11105, which delineates who has access to Criminal Offender Record Information (CORI), and Penal Code sections 11140 through 11144, which establishes penalties for the improper use of rap sheets.

### 609.3 RESPONSIBILITIES

The Chief Probation Officer shall select an employee of the Department to coordinate the use of protected information.

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

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

### 609.4 ACCESS TO PROTECTED INFORMATION

Protected information shall not be accessed in violation of any law, order, regulation, user agreement, Yolo County Probation Department policy and training. Only those employees who

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### *Protected Information*

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have completed applicable training and met any applicable requirements, such as a background check, may access protected information, and only when the member has a legitimate work-related reason for such access.

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

#### **609.4.1 RELEASE OF CONFIDENTIAL OFFENDER RECORD INFORMATION (CORI)**

Only the persons listed below are authorized to release CORI:

- (a) Agency CLETS Coordinator
- (b) CLETS Security Officer
- (c) Chief Probation Officer or designee
- (d) Division Manager or designee
- (e) Superintendent of the Juvenile Detention Facility or designee.

Each authorized person releasing CORI is responsible for ensuring that each request granted appears legitimate and the requester is an authorized recipient with a right and need to know.

\*Reference CORI Procedures

#### **609.5 RELEASE OR DISSEMINATION OF PROTECTED INFORMATION**

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

An employee who is asked to release protected information that should not be released should refer the requesting person to a Supervisor for information regarding a formal request.

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

Protected information, such as Criminal Justice Information (CJI), which includes Criminal History Record Information (CHRI), should generally not be transmitted by radio, cellular telephone or any other type of wireless transmission to members in the field or in vehicles through any computer or electronic device, except in cases where there is an immediate need for the information to further an investigation or where circumstances reasonably indicate that the immediate safety of officers, other Department employees or the public is at risk.

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

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### 609.5.1 REVIEW OF CRIMINAL OFFENDER RECORD

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

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

### **609.6 SECURITY OF PROTECTED INFORMATION**

The Chief Probation Officer will select employees of the Department to act as a CLETS Agency Administrator and a CLETS Security Officer to oversee the security of protected information.

The responsibilities of these positions include, but are not limited to:

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

\* Reference Media Protection Procedures and Media Disposal Procedures

### 609.6.1 CUSTODIAN(S) OF CRIMINAL RECORDS

The Custodian(s) of Criminal Records shall be responsible for the security, storage, dissemination and destruction of criminal records, and will serve as a primary contact for the California Department of Justice for any related issues. The Chief Probation Officer may appoint other Department employees to the role of Custodian of Criminal Records, who will share the same responsibilities regarding criminal records.

The Chief Probation Officer or designee will ensure that he or she makes the appropriate applications and notifications to the California Department of Justice regarding the Department's Custodian of Criminal Record appointments, per the requirements of Penal Code section 11102.2

This subsection is not intended to interfere with any other employee acting as a custodian of records for other statutory purposes but is narrowly tailored to address issues of criminal history records.

### 609.6.2 EMPLOYEE RESPONSIBILITIES

Employees accessing or receiving protected information shall ensure the information is not accessed or received by persons who are not authorized to access or receive it. This includes leaving protected information, such as documents or computer databases, accessible to others when it is reasonably foreseeable that unauthorized access may occur (e.g., on an unattended table or desk; in or on an unattended vehicle; in an unlocked desk drawer or file cabinet; on an unattended computer terminal).

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### **609.7 TRAINING PROGRAM**

All personnel authorized to process or release CORI shall be required to complete a training program prescribed by the California Department of Justice. The assigned training officer and/or designee shall coordinate the course to provide training in the proper use, control, and dissemination of CORI.

### **609.8 PENALTIES FOR MISUSE OF RECORDS**

Penal Code sections 11140 and 11144 make it a misdemeanor to furnish, buy, receive, or possess Department of Justice rap sheets without authorization by a court, statute, or case law.

Any person authorized by law to receive a Department of Justice rap sheet or information obtained from a rap sheet who knowingly furnishes the rap sheet or information to a person who is not authorized by law to receive such a rap sheet or information is guilty of a misdemeanor under Penal Code section 11142.

Title 11, California Administrative Code section 702 provides that authorized persons or agencies violating the Regulations Regarding the Security of Criminal Offender Record Information in California may lose direct access to CORI maintained by the California Department of Justice.

Divulging the content of any criminal record to anyone other than authorized personnel is a violation of Policy Manual section 336.4.6.

Employees who obtain, or attempt to obtain, information from the department files other than that to which they are entitled in accordance with their official duties is a violation of Policy Manual section 336.4.6.

Employees who violate any portion of this section shall be subject to discipline up to and including termination.

### **609.9 CALIFORNIA RELIGIOUS FREEDOM ACT**

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

## **Destruction of Probation Files**

### **616.1 PURPOSE AND SCOPE**

Except as provided herein Yolo County Probation Department files, are to be destroyed five (5) years after the Department has closed its interest in the case.

The authority for the destruction of Probation files is as follows:

- Adult files - Penal Code sections 1203.7(c) and 1203.10 - Five years after termination of probation in any case subject to this section, the probation officer may destroy any records and papers in his or her possession relating to the case.
- Juvenile files - Welfare and Institutions Code section 826(a) - After five years from the date on which the jurisdiction of the juvenile court over a minor is terminated, the probation officer may destroy all records and papers in the proceedings concerning the minor.

### **616.2 DESTRUCTION EXCEPTION**

Due to their serious nature, Probation Files containing any information that may be relevant to future investigations regarding high profile cases or sex offenses may be retained longer than five (5) years with Supervisory approval.

### **616.3 FILES TO BE CONVERTED TO ELECTRONIC FORMAT**

#### **Warrant Files**

Any case file in warrant status where the warrant is over 10 years old shall be converted to electronic format and uploaded to the Department case management system. After uploading the file to electronic format, the physical copy of the file may be destroyed.

#### **High Profile Case Files**

Any case where the defendant has been sentenced to state prison for a period of 25 years or more will be converted to electronic format and uploaded to the Department case management system. The file will not be uploaded unless at least six months has elapsed since sentencing. Once the physical file has been converted to electronic format and uploaded to the system, it will be destroyed.

## **Chapter 7 - Personnel**

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## Recruitment and Selection

### 700.1 PURPOSE AND SCOPE

It is the policy of the Yolo County Probation Department to provide equal opportunities for all job applicants and employees regardless of age, race, color, creed, religion, sex, sexual orientation, gender, gender identity, gender expression, national origin, ancestry, marital status, veteran status, genetic information, or disability. It is also this Department's policy not to show partiality or to grant special favors to any applicant, employee or group of employees. The rules governing employment practices for this Department are maintained by the Yolo County Department of Human Resources.

### 700.2 APPLICANT QUALIFICATIONS

Candidates for job openings will be selected based on merit, ability, competence and experience.

All peace officer candidates must meet the minimum standards described in California Government Code section 1031 in addition to the employment standards established by this Department.

### 700.3 STANDARDS

Employment standards shall be established for each job classification and shall include minimally, the special training, abilities, knowledge and skills required to perform the duties of the job in a satisfactory manner. The Yolo County Department of Human Resources maintains standards for all positions.

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## Evaluation of Employees

### 702.1 PURPOSE AND SCOPE

The Department's employee performance evaluation system is designed to record work performance for both the Department and the employee, providing recognition for good work and developing a guide for improvement. The performance evaluation is also utilized for setting goals, encouraging professional development, and highlighting accomplishments.

### 702.2 POLICY

The Yolo County Probation Department utilizes the Yolo County official performance evaluation report to measure performance and to use as a factor in making personnel decisions that relate to merit increases, promotion, reassignment, discipline, and termination. The evaluation report is intended to serve as a guide for work planning and review by the Supervisor and employee. It gives Supervisors a way to create an objective history of work performance based on job standards. In addition to the performance evaluation, Yolo County's new approach to performance management and employee appraisals includes "coaching conversations" that Supervisors conduct quarterly with staff.

The Department evaluates employees in a non-discriminatory manner based upon job-related factors specific to the employee's position, without regard to age, race, color, creed, religion, sex, sexual orientation, gender, gender identity, gender expression national origin, ancestry, marital status, veteran status, genetic information or disability.

### 702.3 FULL-TIME PERMANENT STATUS PERSONNEL

Permanent employees are subject to three (3) types of performance evaluations:

**Regular** - Annual employee evaluations will be conducted in accordance with the applicable memorandums of understanding covering employees of this Department. If an employee is transferred from one assignment to another in the middle of an evaluation period then the regular evaluation shall be completed by the current Supervisor with input from the previous Supervisor.

**Special/Promotion** - This evaluation may be utilized to provide expectations and goals for any employee that is promoted, to reinforce expectations and set goals. The Special/Promotion Evaluation may also highlight future training and direction that will serve to ensure the newly promoted employee will be successful.

**Performance Improvement Plan (PIP)**- A PIP evaluation may be completed when an employee's performance is deemed substandard. A PIP may be initiated by the employee's immediate Supervisor at the direction of the Chief Probation Officer or his or her designee. Generally, the PIP evaluation is a tool used to identify and address areas of performance deemed below standard when follow-up action is needed (action plan, remedial training, re-training, etc.). The PIP shall be completed in compliance with Human Resource Policy guidelines and attached to a Performance

## *Evaluation of Employees*

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Evaluation Form, with employees covered under the Public Safety Officers Procedural Bill of Rights Act allowed thirty (30) days to respond/rebut in writing.

### 702.3.1 RATINGS

When completing the Employee Performance Evaluation, the rater will place a check mark in the column that best describes the employee's performance. The definition of each rating category is as follows:

- **HIGHLY EFFECTIVE (3):**
  - **Work performance has exceeded expectations of the position due to exceptional quality in essential areas of responsibility, the completion of a major goal, and/or an exceptional or unique contribution in support of the unit and/or Department.** Contributions are marked by distinction and excellence and result in a significant move forward in meeting organizational objectives. Projects and responsibilities are completed in a timely manner with little need for supervisory intervention and frequently include consideration and resolution of unanticipated impacts. Employee exhibits strong leadership qualities in addition to personal initiative and insight.
- **EFFECTIVE (2):**
  - **Work performance fully achieves major expectations.** Employee possesses a competence derived from experience and training with a full depth and breadth of role knowledge, initiative, resourcefulness and good judgment are consistently demonstrated. Employee makes solid, reliable and meaningful contributions to the unit, Department and organization. Work performance consistently fulfills expectations given the employee's tenure in the position and often may exceed them. Employee meets goals set for the evaluation period. Employee is perceived by peers, managers, clients and other customers as collaborative, skilled and reliable. The majority of employee ratings will fall in this category.
- **IMPROVEMENT EXPECTED/REQUIRED (1):**
  - **Performance meets minimal expectations in most areas but does not fully meet expectations or is inconsistent on one or more job requirements and/or responsibilities or in the achievement of goals.** Employee may be learning the required role knowledge but not yet fully performing all requirements and duties of the position. Employee may be demonstrating a lack of effort or competency in a particular aspect of the job. Employee carries an adequate workload but requires close supervision to sustain proficiency. A training/development plan (action plan) to improve performance must be outlined and monitored, with opportunities, measures and timelines for improvement established.

Space for written comments is provided for each category of performance, to allow the rater specific feedback for the employee. This allows the rater to document the employee's strengths,

## *Evaluation of Employees*

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weaknesses, and suggestions for improvement. Any rating under any job dimension marked **IMPROVEMENT EXPECTED/REQUIRED or HIGHLY EFFECTIVE** shall be substantiated in the rater's comments.

Supervisory and management employees should also be familiar with other performance evaluation requirements that may be found in the various memoranda of understanding covering employees of this Department.

### **702.4 EXPECTATIONS**

Employees shall be evaluated in accordance with personnel rules and regulations adopted by the County. Probationary employees are expected to be evaluated every three (3) months and non-probationary employees annually. Nothing shall preclude Special/PIP evaluations for purposes of monitoring performance improvement or to support off-cycle step advancement or promotion.

Annual employee evaluations will be conducted in accordance with the applicable memorandums of understanding covering employees of this Department. .

### **702.5 EVALUATION INTERVIEW**

The Supervisor will ensure that the performance evaluation is prepared and completed in compliance with the Yolo County Policies and Procedures related to performance evaluations. When the Supervisor has completed the evaluation (after review/approval by his or her own Supervisor), he or she shall make arrangements for a private discussion of the evaluation with the employee. The Supervisor should discuss the results of the just completed rating period and clarify any questions the employee may have. If the employee has valid and reasonable protests of any of the ratings, the Supervisor may make appropriate changes to the evaluation. Areas needing improvement and goals for reaching the expected level of performance should be identified and discussed. The Supervisor should also provide relevant counseling regarding advancement, specialty positions and training opportunities. The Supervisor and employee will sign and date the evaluation. If an employee refused to sign the evaluation, the Supervisor should indicate so on the performance evaluation. At no time after the employee has reviewed and signed his or her performance evaluation (or refused to sign the evaluation) shall the final evaluation be altered.

An employee covered under the Public Safety Officers Procedural Bill of Rights Act shall have thirty (30) calendar days from receipt of the final evaluation to respond/rebut his or her performance evaluation. All other Department employees shall have ten (10) calendar days from receipt of the final evaluation to respond/rebut it.

### **702.6 EVALUATION DISTRIBUTION**

The original performance evaluation shall be maintained in the employee's personnel file at the Yolo County Human Resources Department, a copy shall be placed in the Department's personnel file for the tenure of the employee's employment, and a copy shall be given to the employee. If an

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## Policy Manual

### *Evaluation of Employees*

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employee files a written response/rebuttal to his or her final evaluation, a copy of the response/rebuttal shall be attached to each copy of the performance evaluation in each file.

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## Promotional Policy

### 704.1 PURPOSE AND SCOPE

The purpose of this policy is to establish required and desirable qualifications for promotion within the ranks of the Yolo County Probation Department.

#### 704.1.1 GENERAL REQUIREMENTS

Employees will be evaluated for promotions based on factors which include, but are not limited to, the following:

- a. Present a professional appearance.
- b. Demonstrate the following traits:
  1. Emotional stability and maturity.
  2. Honesty.
  3. Sound judgment and decision-making.
  4. Personal integrity and ethical conduct.
  5. Leadership.
  6. Initiative.
  7. Adaptability and flexibility.
  8. Ability to conform to organizational goals and objectives in a positive manner.
  9. Special skills and abilities.
  10. Overall performance with the Department.
  11. Overall experience.
  12. Overall communication skills.

Promotions are made considering all of the above, including all applicable MOU provisions. Upon the selection for promotion, the employee will be contacted to verify acceptance of the position. All candidates will be contacted and advised of the decision. Whenever possible, this contact will be made via telephone or in person prior to the formal announcement of the promotion.

## Reporting of Employee Convictions

### 710.1 PURPOSE AND SCOPE

Convictions of certain offenses may restrict or prohibit an employee from performing his or her official duties. Therefore, all employees are required to notify the Department promptly of any criminal convictions. Peace officer employees also must notify the Department of all recent arrests and of pending criminal proceedings against them.

### 710.2 DOMESTIC VIOLENCE CONVICTIONS AND RESTRAINING ORDERS

California and federal law prohibit individuals convicted of, or having and outstanding warrant for, certain offenses and individuals subject to certain court orders from lawfully possessing a firearm. Such convictions and court orders often involve allegations of the use or attempted use of force or threatened use of a weapon on any individual in domestic relationship (e.g., spouse, cohabitant, parent, child).

Penal Code section 29805 prohibits any person convicted of certain offenses including, but not limited to Penal Code sections 273.5, 273.6 and 646.9, from lawfully possessing a firearm within ten (10) years of the conviction. Pursuant to the Federal Domestic Violence Gun Control Act. (18 USC § 921(a) and 18 USC § 922(d).) any person who has been convicted of a misdemeanor domestic violence offense is prohibited from possessing any firearm or ammunition. Employees shall report promptly any and all convictions of such nature to the Chief Probation Officer or their designee.

Federal law also prohibits firearm possession by any individual who is the subject of a domestic violence restraining order. While this federal restriction does not apply to temporary restraining orders. (18 USC § 922(d)(8).) Family Code section 6389 does prohibit any individual from lawfully possessing a firearm if they are currently the subject of a domestic violence restraining order (including temporary and emergency orders). As such, employees shall notify the Chief Probation Officer or their designee promptly if they become the subject of any temporary, emergency or permanent domestic restraining order.

### 710.3 OTHER CRIMINAL CONVICTIONS AND COURT ORDERS

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

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

Outstanding warrants as provided in Penal Code section 29805 also place restrictions on a member's ability to possess a firearm.

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## Policy Manual

### *Reporting of Employee Convictions*

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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.

#### **710.4 REPORTING PROCEDURE**

All members of this Department and all retired officers with an identification card issued by the Department shall promptly notify their immediate supervisor (or the Chief Probation Officer in the case of retired officers) promptly in writing of any criminal arrest, outstanding warrant or conviction regardless of whether or not the matter is currently on appeal and regardless of the penalty or sentence, if any.

All members and all retired officers with an identification card issued by the Department shall further promptly notify their immediate supervisor (or the Chief Probation Officer in the case of retired officers) in writing if the member or retiree becomes the subject of a domestic violence restraining order or similar court order or becomes the subject of an outstanding warrant.

Any member whose criminal conviction unduly restricts or prohibits that member from fully and properly performing his or her duties may be disciplined including, but not limited to reassignment and/or termination. Any effort to remove such disqualification or restriction shall remain entirely the responsibility of the member on his/her own time and expense.

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

#### **710.5 PROCEDURE FOR RELIEF**

Pursuant to Penal Code section 29855, a peace officer whose employment or livelihood is dependent on the ability to legally possess a firearm may petition the court for permission to carry a firearm following a conviction under Penal Code sections 273.5, 273.6 or 646.9. Federal law, however, does not provide for any such similar judicial relief and the granting of a state court petition under Penal Code section 29855 will not relieve a peace officer 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 section 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 his or her employment. Relief from any domestic violence restraining order 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, re-assigned or investigated for the underlying associated conduct. The Department may, but is not required to return an employee to any assignment, reinstate any employee or withdraw any pending disciplinary action upon presentation of satisfactory proof of relief from any legal restriction set forth in this policy.

## Drug and Alcohol-Free Workplace

### 712.1 PURPOSE AND SCOPE

The purpose of this policy is to deter the misuse or abuse of legal or illegal substances that create a threat to the safety and health of any employee or member of the public. The Yolo County Probation Department discourages alcohol and drug abuse and strives to achieve a workforce free from the influence of drugs and alcohol.

### 712.2 GENERAL GUIDELINES

The Yolo County Probation Department is a Drug Free Workplace as required by federal law. Employees shall not possess, use, store or bring into any Department facility or vehicle, alcoholic beverages or controlled substances as enumerated in Sections 11054 through 11058 of the Health and Safety Code, except when prescribed by a licensed physician or dentist.

- (a) Upon arrival or return to duty, employees shall not be under the influence of alcohol and/or controlled substances, which would impair their job performance.
- (b) Employees shall not consume intoxicating substances or beverages while on duty including training days.

The Yolo County Alcohol and Drug Abuse Policy provides further guidelines on the misuse and abuse of alcohol and controlled substances by Department members, including applicable definitions and testing requirements. Department procedures will follow the Yolo County Alcohol and Drug Abuse Policy, where applicable; however, County policy will not be applied in violation of any member's rights under the Public Safety Officers Procedural Bill of Rights Act.

#### 712.2.1 USE OF PRESCRIBED MEDICATIONS

Any employee who is required to take any medication that has side effects that might impair his or her ability to perform fully and safely perform all requirements of his or her assignment shall report the need for such medication to his or her immediate Supervisor prior to commencing any on-duty status. No employee shall be permitted to work or drive a Department-owned or Department-leased vehicle while taking such potentially impairing medication without a written release from his or her physician.

Possession of medical marijuana or being under the influence of marijuana on- or off-duty is prohibited and may lead to disciplinary action. Any exception to this policy will be at the discretion of the Chief Probation Officer and/or designee.

### 712.3 EMPLOYEE ASSISTANCE PROGRAM

Employees who wish to seek help for alcohol and/or drug problems may be able to receive assistance through the County's Employee Assistance Program (EAP), or through the employee's individual healthcare provider.

## *Drug and Alcohol-Free Workplace*

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Employees are encouraged to contact the Human Resources Department, their insurance provider, or the Employee Assistance Program (EAP) for additional information or rehabilitation programs.

It is the responsibility of each employee to seek assistance before alcohol and/or drug problems lead to negative performance issues.

### **712.4 CONFIDENTIALITY**

The Department recognizes the confidentiality and privacy rights of its employees. Disclosure of any information relating to substance abuse treatment, except on a need-to-know basis, shall be only with the express written consent of the employee involved or pursuant to lawful process.

The written results of any screening tests and all documents generated by the Employee Assistance Program are considered confidential medical records and shall be maintained separately from the employee's other personnel files.

### **712.5 COMPLIANCE WITH THE DRUG-FREE WORKPLACE ACT**

No later than 30 days following notice of any drug statute conviction for a violation occurring in the workplace involving a member, the Department will take appropriate disciplinary action, up to and including dismissal, and/or requiring the member to satisfactorily participate in a drug abuse assistance or rehabilitation program. (41 USC § 8104.)

### **712.6 REQUESTING SCREENING TESTS**

Management may order an employee to submit to a screening test under the following circumstances:

- (a) If Management has reasonable suspicion to believe, based upon objective facts, that the employee is under the influence of alcohol or drugs that are impairing his or her ability to perform duties safely and efficiently.
- (b) The employee discharges a firearm, other than by accident, in the performance of his or her duties.
- (c) During the performance of his or her duties, the employee drives a motor vehicle and becomes involved in an incident that results in bodily injury to him or herself or another person, or substantial damage to property and there is reasonable suspicion to believe the incident is related to the employee's use of drugs or alcohol.

"Reasonable suspicion" is a belief based on objective facts sufficient to lead a prudent manager, supervisor, or co-worker to suspect that a County employee is under the influence of drugs and/or alcohol so that the employee's ability to perform the functions of the job is impaired, or so that the employee's ability to perform the job in a safe manner is reduced.

#### **712.6.1 MANAGEMENT RESPONSIBILITY**

Management shall prepare a written record documenting the specific facts that led to the decision to request the test, and shall inform the employee in writing of the following:

## *Drug and Alcohol-Free Workplace*

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- (a) The test will be given to detect either alcohol, drugs, or both.
- (b) The result of the test is not admissible in any criminal proceeding against the employee.
- (c) The employee may refuse the test, but refusal may result in termination or other disciplinary action.

Management will take reasonable steps necessary to maintain confidentiality of the results of any screening test and shall only disseminate the results as required by law or necessary for administration purposes.

### 712.6.2 SCREENING TEST REFUSAL

An employee may be subject to disciplinary action if he or she:

- (a) Fails or refuses to submit to a screening test as requested.
- (b) After taking a screening test that indicates the presence of a controlled substance, fails to provide proof, within 72 hours after being requested to do so, that he or she took the controlled substance as directed pursuant to a current and lawful prescription issued in his or her name.
- (c) Violates any provisions of this policy.

## Communicable Diseases

### 716.1 PURPOSE AND SCOPE

This policy supplements the Yolo County Exposure Plan by providing guidelines for Department personnel to assist in minimizing the risk of contracting and/or spreading communicable diseases and the incidence of illness and injury. The policy supports the following goals:

- (a) To manage the risks associated with blood borne pathogens (BBP), aerosol transmissible diseases, and other potentially infectious substances.
- (b) To assist Department personnel in making decisions concerning the selection, use, maintenance, limitations, storage, and disposal of personal protective equipment (PPE).
- (c) To protect the privacy rights of all Department personnel who may be exposed to or contract a communicable disease during the course of their duties.
- (d) To provide appropriate treatment and counseling should an employee be exposed to a communicable disease.

#### 716.1.1 DEFINITIONS

Definitions related to this policy include:

**Communicable disease** - A human disease caused by microorganisms that are present in and transmissible through human blood, bodily fluid, tissue, or by breathing or coughing. These diseases commonly include, but are not limited to, hepatitis B virus (HBV), HIV and tuberculosis.

**Exposure** - When an eye, mouth, mucous membrane or non-intact skin comes into contact with blood or other potentially infectious materials, or when these substances are injected or infused under the skin; when an individual is exposed to a person who has a disease that can be passed through the air by talking, sneezing or coughing (e.g., tuberculosis), or when the individual is in an area that was occupied by such a person. Exposure only includes those instances that occur due to an employee's position at the Yolo County Probation Department. (See the exposure control plan for further details to assist in identifying whether an exposure has occurred.)

### 716.2 DESCRIPTION OF EXPOSURE TO BLOOD, BODILY FLUIDS OR AEROSOL TRANSMISSIBLE DISEASES

All Department personnel who are exposed to another person's blood, bodily fluids or an aerosol transmissible disease (e.g., during an altercation or while attending to an injured person) shall follow these procedures and guidelines.

Exposure to blood or other potentially infectious materials includes, but is not limited to, the contact of such substances with the eye, mouth, other mucous membranes, non-intact skin, needle sticks, human bites, cuts or abrasions or any exposure that otherwise qualifies under Health and Safety Code section 121060.1 or 8 CCR section 5193.

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### *Communicable Diseases*

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Exposure to an aerosol transmissible disease is any event in which all of the following have occurred (8 CCR § 5199):

- (a) An employee has been exposed to an individual who has a case or a suspected case of a reportable aerosol transmissible disease, or to a work area or equipment that is reasonably expected to contain aerosol transmissible pathogens associated with a reportable aerosol transmissible disease;
- (b) The exposure occurred without the benefit of applicable exposure controls required by this policy; and
- (c) It reasonably appears from the circumstances of the exposure that transmission of disease is sufficiently likely as to require medical evaluation.

#### 716.2.1 SAFETY COORDINATOR

The Chief Probation Officer will assign a person as the Department's Safety Coordinator. The Safety Coordinator shall be responsible for the following:

- (a) Working with the Yolo County Designated Infection Control Officer (DICO) and the County Risk Manager to assist in coordinating Department management of the County Bloodborne Pathogen Exposure Control Plan (ECP).
- (b) Working with the DICO and County Risk Manager to develop and administer any additional related policies and practices necessary to support the effective Department implementation of the County ECP.
- (c) Acting as a liaison with the DICO and County Risk Manager during Cal-OSHA inspections and ensuring exposure report forms are available and adequate for employees to properly report incidents of exposure.
- (d) Maintaining an up-to-date list of Department staff requiring training. Working in conjunction with Supervisors to ensure staff are trained pursuant to County mandates.

Department Supervisors are responsible for exposure control in their respective areas. Supervisors will ensure that the proper exposure control procedures are followed for any affected employees.

#### 716.2.2 UNIVERSAL PRECAUTIONS

All human blood and body fluids such as saliva, urine, semen, and vaginal secretions are to be treated as if they are known to be infectious. Where it is not possible to distinguish between body fluid types, all body fluids are to be presumed potentially infectious.

#### 716.2.3 PERSONAL PROTECTIVE EQUIPMENT

Personal protective equipment is the last line of defense against communicable disease. Therefore, the following equipment is provided for all personnel to assist in the protection against such exposures:

- Not less than two pairs of disposable gloves. (Keeping a box in the probation vehicle recommended).
- Safety glasses or goggles.

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- Alcohol (or waterless hand sanitizer) to flush skin at emergency site. (Keeping several alcohol hand wipes in the probation vehicle recommended).

#### 716.2.4 WORK PRACTICES

All personnel shall use the appropriate barrier precautions to prevent skin and mucous membrane exposure whenever contact with blood or body fluid is anticipated.

Disposable gloves shall be worn on all medical emergency responses and before making physical contact with any person who may require medical treatment and/or when handling items (e.g., evidence, transportation vehicle) soiled with blood or other body fluids. Should an employee's disposable gloves become contaminated with blood or other body fluids, the gloves shall be disposed of as contaminated waste. Care should be taken to avoid touching other items (e.g., pens, books, personal items ) while wearing the disposable gloves in a potentially contaminated environment.

All procedures involving blood or other potentially infectious materials shall be performed in a way to minimize splashing, spraying, or otherwise generating droplets of those materials.

Eating, drinking, smoking, applying lip balm, and handling contact lenses shall be prohibited in areas where a potential for exposure exists.

#### **716.3 DISPOSAL AND DECONTAMINATION**

The following procedures apply to disposal and decontamination after an event that involved contact with a person's blood or body fluids:

##### 716.3.1 USE OF WASTE CONTAINERS

Officers shall dispose of biohazards with the on-scene emergency response personnel, or at the attending clinic/hospital with their approval, or in an appropriately marked biohazard waste container at the Department immediately upon arrival.

The biohazard waste container located at the office and/or facility shall be collapsible, leak-proof, red in color and labeled with a biohazard warning and routinely emptied.

##### 716.3.2 DECONTAMINATION OF SKIN AND MUCOUS MEMBRANES

Personnel shall wash their hands immediately (on-scene if possible) or as soon as possible following the removal of potentially contaminated gloves. Antibacterial soap and warm water or an approved disinfectant shall be used to wash one's hands, paying particular attention to the fingernails.

If an employee's intact skin contacts someone else's blood or bodily fluids or other potentially infectious materials, the employee shall immediately wash the exposed part of his or her body with soap and warm water and/or an approved disinfectant as soon as possible. If the skin becomes grossly contaminated, body washing shall be followed by an approved hospital-strength disinfectant. If large areas of the employee's skin are contaminated, the employee shall shower as

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soon as possible, using warm water and soap and/or an approved disinfectant. Medical treatment should be obtained.

Contaminated non-intact skin (e.g., injured skin, open wound) shall be cleaned using an approved disinfectant and then dressed or bandaged as required. Medical treatment is required.

All hand, skin, and mucous membrane washing that takes place in the Department shall be done in a bathroom designated as a temporary cleaning or decontamination area. The bathroom will be decontaminated before use by any other non-exposed employee.

#### 716.3.3 SHARPS AND ITEMS THAT CUT OR PUNCTURE

All personnel shall avoid using or holding sharps (needles) unless necessary while assisting a paramedic or for collection.. Unless required for evidence preservation, employees are not to recap sharps. Disposal of sharps shall be into a puncture-proof biohazard container.

All sharps and items that cut or puncture (e.g., broken glass, razors, and knives) shall be treated cautiously to avoid cutting, stabbing or puncturing one's self or any other person. In addition, if a sharp object contains known or suspected blood or other bodily fluids, that item is to be treated as a contaminated item.. Use a device such as tongs or a broom and a dustpan to cleanup sharps debris. If the material must be hand-held, protective gloves must be worn.

#### 716.3.4 DISPOSABLE PROTECTIVE EQUIPMENT

Contaminated disposable supplies (gloves, gowns, boot covers) shall be transported with the person needing medical treatment in the ambulance, paramedic truck or probation vehicle. The waste material shall be disposed of in a biohazard waste container at the hospital or police station. Disposable gloves are to be worn while placing the waste into the waste biohazard container, placing the gloves in with the waste.

#### 716.3.5 DECONTAMINATION OF PERSONAL PROTECTIVE EQUIPMENT

After using any reusable personal protective equipment, the employee shall wash, disinfect and store the equipment appropriately. If the personal protective equipment is non-reusable (e.g., disposable gloves), the employee shall discard it in a biohazard waste container.

Any personal protective equipment that becomes punctured, torn or loses its integrity shall be removed as soon as feasible..

Contaminated reusable personal protective equipment that must be transported before cleaning shall be placed into a biohazard waste bag and transported in the ambulance, paramedic truck or probation vehicle. Gloves shall be worn by Department employees while handling and disposing of the biohazard waste bag, and then included in with the waste.

#### 716.3.6 DECONTAMINATION OF NON-DISPOSABLE EQUIPMENT

Contaminated non-disposable equipment (e.g., flashlight, gun, phone, clothing, portable radio) shall be decontaminated as soon as possible. If it is to be transported, it shall be done by first placing it into a biohazard waste bag.

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Porous surfaces such as nylon bags and straps shall be brushed and scrubbed with a detergent and hot water, laundered and allowed to dry. Non-porous surfaces (e.g., plastic or metal) shall be brushed and scrubbed with detergent and hot water, sprayed with aerosolized bleach solution or sporicidin (wipes, if available), rinsed, and allowed to dry. Delicate equipment (e.g., radios) should be brushed and scrubbed very carefully using a minimal amount of a type of germicide that is approved by the Environmental Protection Agency (EPA).

While cleaning equipment, pay close attention to handles, controls, portable radios, and corners (tight spots). Equipment cleaning shall not be done in the kitchen, bathrooms, or other areas not designated as the cleaning/decontamination area.

Contaminated equipment should be cleaned using an approved EPA germicide or a 1:100 solution of chlorine bleach (one-quarter-cup of bleach per one gallon of water) while wearing disposable gloves and goggles. Large particles of contaminants such as, vomit, feces, blood clots, etc. should first be removed with absorbents and properly disposed of.

### 716.3.7 DECONTAMINATION OF CLOTHING

Contaminated clothing such as uniforms and undergarments shall be removed as soon as feasible and rinsed in cold water to prevent the setting of bloodstains. If the clothing may be washed in soap and hot water, do so as soon as possible. If the clothing must be dry cleaned, place it into a biohazard waste bag and contact the Safety Coordinator . The Safety Coordinator will secure a dry cleaner that is capable of cleaning contaminated clothing, and inform them of the potential contamination. This dry cleaning will be done at the Department's expense.

Contaminated leather boots shall be brushed and scrubbed with detergent and hot water. If the contaminant soaked through the boot, the boot shall be discarded.

### 716.3.8 DECONTAMINATION OF VEHICLES

Contaminated vehicles and components such as the seats, radios, and doors shall be washed with soap and warm water and disinfected with an approved germicide as soon as feasible. Said vehicles will be taken out of commission until decontaminated.

## **716.4 POST-EXPOSURE REPORTING AND FOLLOW-UP REQUIREMENTS**

In actual or suspected exposure incidents, proper documentation and follow-up action must occur to limit potential liabilities and to ensure the best protection and care for the employee(s).

### 716.4.1 EMPLOYEE RESPONSIBILITY TO REPORT EXPOSURE

To provide appropriate and timely treatment should exposure occur, all employees shall verbally report the exposure to their immediate Supervisor and complete a written exposure report as soon as possible following the exposure or suspected exposure. That report shall be submitted to the employee's immediate Supervisor. Additionally, employees should document in the exposure report whether they would like the person who was the source of the exposure to be tested for communicable diseases.

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### 716.4.2 SUPERVISOR REPORTING REQUIREMENTS

The Supervisor on-duty shall investigate every exposure that occurs as soon as possible following the incident, while gathering the following information:

- (a) Name and necessary Personal Identifying Information of the employee(s) exposed.
- (b) Date and time of incident.
- (c) Location of incident.
- (d) What potentially infectious materials were involved.
- (e) Source of material or person.
- (f) Current location of material or person.
- (g) Work being done during exposure.
- (h) How the incident occurred or was caused.
- (i) Actions taken post-event (e.g., clean-up, notifications).

The Supervisor shall advise the employee of the laws and regulations concerning disclosure of the identity and infectious status of a source.

The Supervisor will work with the Safety Coordinator to seek testing of the person who was the source of the exposure.

### 716.4.3 MEDICAL CONSULTATION, EVALUATION AND TREATMENT

Any employee who was exposed or who suspects he or she was exposed to any communicable disease should be seen by a physician or qualified health care provider as soon as possible. The doctor or qualified health care provider should be provided with the Supervisor's report and the employee's medical records relevant to the visit and examination. The health care provider will determine any necessary tests or procedures that need to be taken.

The health care professional will provide the County's Risk Manager with a written opinion/evaluation of the exposed employee's medical condition. This opinion should contain only the following information:

- Whether a post-exposure treatment is indicated for the employee
- Whether the employee received a post-exposure treatment
- Confirmation that the employee received the evaluation results
- Confirmation that the employee was informed of any medical condition resulting from the exposure incident and whether further treatment or evaluation will be required
- Whether communicable disease testing from the source is warranted, and if so, which diseases should the testing include
- Any precautionary or actual work limitations due to exposure

All other findings or diagnosis shall remain confidential and are not to be included in the written report.

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#### 716.4.4 COUNSELING

The Department shall provide the exposed employee (and his or her family if necessary) the opportunity for counseling and consultation at County expense

#### 716.4.5 CONFIDENTIALITY OF REPORTS

Most of the information involved in this process must remain confidential. The Safety Coordinator shall ensure that all records and reports are kept in the strictest confidence. The Safety Coordinator shall be responsible for maintaining such records.

This information is confidential and shall not be disclosed to anyone without the employee's written consent (except as required by law). Test results from persons who may have been the source of an exposure are to be kept confidential as well.

#### 716.5 SOURCE TESTING

Testing for communicable diseases of a person who was the source of an exposure should be sought when it is desired by the exposed employee or when it is otherwise appropriate. There are five (5) methods to obtain such testing. It is the responsibility of the Safety Coordinator and the exposed employee's Supervisor to work with the County Risk Manager and the Designated Infection Control Officer to ensure that the proper testing and reporting occur. These methods are:

- (a) Obtaining voluntary consent from any person who may be the source of an exposure to cover testing for any communicable disease.
- (b) Filing a report with the county health officer when an employee is exposed to the bodily fluids of an arrestee. The county health officer may pursue testing for HIV or hepatitis B or C pursuant to Penal Code section 7510 et seq.
- (c) Applying for a court order for HIV, hepatitis B or hepatitis C testing pursuant to Health and Safety Code section 121060 et seq.
- (d) Seeking a court order when the person who may be the source of an exposure will not consent to testing and the exposure does not fall under the statutory schemes for testing. This covers testing for any communicable disease as deemed appropriate by a health care professional and documented in the request for the court order.
- (e) Under certain circumstances, pursuant to Penal Code section 1524.1, a court may issue a search warrant for the purpose of HIV testing of an adult or juvenile when an employee of the Department qualifies as a crime victim.

#### 716.5.1 EXPOSURE FROM A NON-ARRESTEE

Upon notification of an employee's exposure to a person who was not arrested, the Safety Coordinator/employee's Supervisor should attempt to determine if the person who was the source of the exposure will voluntarily consent to testing. If consent is indicated, the following steps should be taken:

- (a) A licensed health care provider should notify the person to be tested and make a good faith effort to obtain voluntary informed consent from the person or his or her authorized legal representative to perform a test for HIV, hepatitis B, hepatitis C and other communicable diseases the health care provider deems appropriate.

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### *Communicable Diseases*

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- (b) The voluntary informed consent obtained by the health care provider must be in writing and include consent for three (3) specimens of blood for testing. The Safety Coordinator/employee's Supervisor should document the consent as a supplement to the Exposure Control Report.
- (c) The results of the tests should be made available to the source and the exposed employee.

If consent is not obtained, the Safety Coordinator/employee's Supervisor should promptly consult with County Counsel and consider requesting that a court order be sought for appropriate testing.

#### 716.5.2 EXPOSURE FROM AN ARRESTEE

Upon notification of an exposure to an employee by a person who was arrested, the Safety Coordinator/employee's Supervisor should work in conjunction with the DICO and take the following steps:

- (a) Comply with the statutory scheme of Health and Safety Code section 121060. This includes seeking consent from the person who was the source of the exposure and seeking a court order if consent is not given.
- (b) Take reasonable steps to immediately contact the County Health Officer and provide preliminary information regarding the circumstances of the exposure and the status of the involved individuals to determine whether the County Health Officer will order testing pursuant to Penal Code section 7510.
- (c) In all cases, comply with the reporting and testing scheme of Penal Code section 7510 et seq. This includes completing a State Department of Health Services Form CDPH 8479 and submitting it to the County Health Officer with a copy of the Exposure Control Report by the end of the employee's shift. If submission by the end of the shift is not practicable, it must occur as soon as possible but no later than two (2) days after the incident. The exposed employee's name should not appear on this form.
- (d) Remain in contact with the County Health Officer to determine whether testing of the arrestee will occur and whether the testing satisfies the medical needs of the employee.
- (e) The results of the tests should be made available to the source and the exposed employee.

Since there is potential for overlap between the two statutory schemes, the Safety Coordinator/employee's Supervisor shall work with the DICO for coordinating the testing with the County Health Officer to prevent unnecessary or duplicate testing.

In the rare event the exposed employee is not covered by either statutory scheme, the Safety Coordinator/employee's Supervisor should work with County Counsel to seek consent or a court order in the same manner as for a non-arrestee.

## Smoking and Tobacco Use

### 718.1 PURPOSE AND SCOPE

This policy establishes limitations on smoking and the use of tobacco products by employees and others while on-duty or while in Yolo County Probation Department facilities, on county property or in Department vehicles.

For the purposes of this policy, smoking and tobacco use includes, but is not limited to, any tobacco product, such as cigarettes, cigars, pipe tobacco, snuff, tobacco pouches and chewing tobacco, as well as any device intended to simulate smoking, such as an electronic cigarette or personal vaporizer.

### 718.2 POLICY

Smoking and other use of tobacco products is not permitted inside Department facilities or in any Department vehicle. It shall also be the responsibility of all employees to ensure that no person smokes or uses any tobacco product inside Department facilities and vehicles.

Smoking on county property will be allowed only at the following areas:

- (1) At the Day Reporting Center at the designated smoking area.
- (2) At the Sheriff's Office, Monroe Detention Center, and Juvenile Detention Facility in the designated employee smoking areas.
- (3) At the Public Defender's Office in all areas located 20 ft. from entrances, exits, windows, and intake vents.
- (4) At the Yolo Emergency Communication Agency at the designated employee smoking area

Employees in uniform are also prohibited from smoking or using tobacco products while in public view.

## Employee Assistance Program

### 719.1 POLICY

The County of Yolo and the Yolo County Probation Department recognize employees may have personal problems that may be helped with professional intervention. The Employee Assistance Program (EAP) is designed to specifically help employees with problems that prevent them from doing their best possible work.

#### 719.1.1 EMPLOYEE ASSISTANCE PROGRAM

Supervisors and Managers should refer employees to the Employee Assistance Program when it appears that an employee is in need of assistance. The types of issues the Employee Assistance Program can address include but are not limited to the following:

- Marital and family problems
- Alcohol abuse
- Drug dependency
- Credit concerns
- Stress issues
- Emotional problems

When an employee is formally referred to either Mental Health Services or the Employee Assistance Program, the employee's Supervisor must notify the Chief Probation Officer or designee via the chain of command. Information received shall remain confidential pursuant to HIPAA.

#### 719.1.2 GUIDELINES FOR INTERVENTION OR REFERRAL

When staff appear in need of assistance, use the following guidelines:

- (a) If the condition is acute (suicidal, violent, etc. ) call 911 immediately and request Mental Health services to evaluate the staff person. Note: Do not accept an "over the phone" assessment.
- (b) If the employee's condition is not acute and he or she is under the care of a provider for mental health services, help that person make arrangements for service even if it means transporting him or her to the service provider, or refer him or her to the Employee Assistance Program.
- (c) If the employee's condition is not acute and he or she is not under the care of a provider for mental health services, refer that employee to the Employee Assistance Program.

## Personnel Complaints

### 720.1 PURPOSE AND SCOPE

This policy provides guidelines for the reporting, investigation and disposition of complaints regarding the conduct of employees of the Yolo County Probation Department. This policy shall not apply to any questioning, counseling, instruction, informal verbal admonishment or other routine or unplanned contact of a member in the normal course of duty, by a Supervisor or any other employee, nor shall this policy apply to a criminal investigation.

#### 720.1.1 PERSONNEL COMPLAINTS DEFINED

Personnel complaints consist of any allegation of misconduct or improper job performance against any Department employee that, if true, would constitute a violation of Department policy, federal, state or local law.

Inquiries about employee conduct which, even if true, would not qualify as a personnel complaint may be handled informally by a Department Supervisor and shall not be considered complaints.

This policy shall not apply to any counseling, instruction, informal verbal admonishment or other routine or unplanned contact of an employee in the normal course of duty, by a Supervisor or any other employee, nor shall this policy apply to an investigation concerned solely and directly with alleged criminal activities. (Govt. Code § 3303(i).)

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

**Informal** - A matter in which the complaining party is satisfied appropriate action has been taken by a Department Supervisor of rank greater than the accused employee. Informal complaints need not be documented on a personnel complaint form and the responsible Supervisor shall have the discretion to handle the complaint in any manner consistent with this policy.

**Formal** - A matter in which the complaining party requests further investigation or about which a Department Supervisor determines further action is warranted. Such complaints may be investigated by a Department Supervisor of rank greater than the accused employee or assigned to an internal affairs investigator by Management depending on the seriousness and complexity of the investigation.

**Incomplete** - A matter in which the complaining party either refuses to cooperate or becomes unavailable after diligent follow-up investigation. At the discretion of the assigned Supervisor or Management, such matters need not be documented as personnel complaints, but may be further investigated depending on the seriousness of the complaint and the availability of sufficient information.

### 720.2 POLICY

The Yolo County Probation Department takes seriously all complaints regarding the service provided by the Department and the conduct of its employees.. It is the policy of this Department to ensure the community can report misconduct without concern for reprisal or retaliation.

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### *Personnel Complaints*

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The Department will accept and address all complaints of misconduct in accordance with this policy and applicable federal, state and local law, municipal and county rules and the requirements of any collective bargaining agreements.

It is also the policy of this Department to ensure that the community can report misconduct without concern for reprisal or retaliation.

#### 720.2.1 AVAILABILITY OF COMPLAINT FORMS

Civilian Complaint forms will be maintained at the Probation Department reception desk upon request and available on the Probation Department website.

#### 720.2.2 SOURCE OF COMPLAINTS

- (a) A Department employee becoming aware of alleged misconduct shall immediately notify a Supervisor.
- (b) A Supervisor receiving a complaint from any source alleging misconduct of an employee which, if true, could result in disciplinary action shall advise Management.
- (c) Anonymous complaints and third party complaints should be accepted and investigated to the extent that sufficient information is provided.

#### 720.2.3 ACCEPTANCE OF COMPLAINTS

A complaint may be filed in person, in writing, or by telephoning the Department. Although not required, every effort should be made to have the complainant appear in person. The following should be considered before taking a complaint:

- (a) Complaints shall not be prepared unless the alleged misconduct or job performance is of a nature which, if true, would constitute a violation of Department policy, federal, state or local law.
- (b) When a Supervisor determines that the reporting person is satisfied that their complaint required nothing more than an explanation regarding the proper/improper implementation of Department policy or procedure, a complaint need not be taken.
- (c) When the complainant is intoxicated to the point where his or her credibility appears to be unreliable, identifying information should be obtained and the person should be provided with a Personnel Complaint form.
- (d) Depending on the urgency and seriousness of the allegations involved, complaints from juveniles should generally be taken only with their parents or guardians present and after the parents or guardians have been informed of the circumstances prompting the complaint. Juveniles in custody at the Juvenile Detention Facility may file a complaint without a parent or guardian being present by submitting a grievance form to staff at the JDF. This grievance will be forwarded to the Juvenile Detention Facility Superintendent for appropriate investigation and follow-up.

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### 720.2.4 COMPLAINT DOCUMENTATION

Formal complaints of alleged misconduct shall be documented by a Supervisor on a Civilian Complaint form. The Supervisor shall ensure that the nature of the complaint is defined as clearly as possible.

A Supervisor may elect to document informal complaints as a Supervisor log entry.

When a Civilian Complaint form is completed in person, the complainant should legibly write a detailed narrative of his or her complaint. If circumstances indicate that this is not feasible, the complaint may be dictated to the receiving Supervisor. In an effort to ensure accuracy in any complaint, it is recommended that a recorded statement be obtained from the reporting party. A refusal by a party to be recorded shall not alone be grounds to refuse to accept a complaint. Whether handwritten or dictated, the complainant's signature should be obtained at the conclusion of the statement. The complainant should be provided with a copy of his or her own original complaint per Penal Code section 832.7.

### 720.3 SUPERVISOR RESPONSIBILITY

A Supervisor who becomes aware of alleged misconduct shall take reasonable steps to prevent aggravation of the situation. Moreover, Supervisors shall also maintain the ability to engage in the interrogation of an employee in the normal course of duty, counseling, instruction, or informal verbal admonishment, or other routine or unplanned contact. (Govt. Code§ 3303(i).)

In general, the primary responsibility for the investigation of a personnel complaint shall rest with the employee's immediate Supervisor. The Chief Probation Officer or authorized designee may, however, direct that another Supervisor or an internal affairs investigator investigate it. The Supervisor shall be responsible for the following:

- (a) A Supervisor receiving a formal complaint involving allegations of a potentially serious nature shall ensure that the Manager of the accused employee and Chief Probation Officer are notified as soon as practicable.
- (b) A Supervisor receiving or initiating any formal complaint shall ensure that a Personnel Complaint form has been completed as fully as possible. The original complaint form will then be directed to the Supervisor of the accused employee, who will take appropriate action or forward the complaint to Management for further action.
  1. During the preliminary investigation of any complaint, the Supervisor should make every reasonable effort to obtain names, addresses and telephone numbers of additional witnesses.
  2. Once immediate medical attention has been provided, photographs of alleged injuries as well as accessible areas of non-injury should be taken.
  3. In circumstances where the integrity of the investigation could be jeopardized by reducing the complaint to writing or where the confidentiality of a complainant is at issue, a Supervisor shall orally report the matter to their Division Manager or Superintendent of the Juvenile Detention Facility depending on the accused employee's assignment, who will initiate appropriate action and advise the Chief Probation Officer

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- (c) A Supervisor dealing with an accused employee shall ensure that the procedural rights of the employee are followed pursuant to Government Code section 3303, et seq.
- (d) When the nature of a personnel complaint relates to sexual, racial, ethnic, or other forms of prohibited harassment or discrimination, the Supervisor receiving the complaint shall promptly contact the Department of Human Resources and the Chief Probation Officer for direction regarding their role in investigation and/or addressing the complaint.
- (e) Follow-up contact with the complainant should be made within 24 hours of the Department receiving the complaint.
- (f) If the matter is resolved and no further action is required, the Supervisor will note the resolution on a complaint form and forward the form to Management.

#### **720.4 ASSIGNMENT TO ADMINISTRATIVE LEAVE**

When a complaint of misconduct is of a serious nature or when the nature of the misconduct would impose an unreasonable risk to the Department, the employee, other employees or the public, the Chief Probation Officer or designee may assign the accused employee to inactive duty pending completion of the investigation or the filing of administrative charges.

##### **720.4.1 ADMINISTRATIVE LEAVE AND/OR SEPARATION OF SERVICE**

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

- (a) An employee placed on administrative leave shall continue to receive regular pay and benefits pending the imposition of any discipline.
- (b) An employee placed on administrative leave may be required by a Supervisor to relinquish any badge, Departmental identification, assigned weapon(s) and any other Departmental equipment.
- (c) An employee placed on administrative leave may be ordered to refrain from taking any action as a Departmental employee or in an official capacity. The employee shall be required to continue to comply with all policies and lawful orders of a Supervisor.
- (d) An employee placed on administrative leave may be temporarily reassigned to a different shift (generally normal business hours) during the pendency of the investigation and the employee may be required to remain available for contact at all times during such shift and report as ordered.
- (e) At such time as any employee placed on administrative leave is returned to full and regular duty, the employee shall be returned to their regularly assigned shift with all badges, identification card and other equipment returned.

At any time that an employee is placed on administrative leave and/or an employee is separated from the Yolo County Probation Department, and it is anticipated that the employee will be removing their personal and Departmental property from their assigned locker or other space for storage, that employee will be escorted by a Departmental Supervisor and/or staff designated by the Chief Probation Officer. The removal of such property will be conducted in the presence

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of a Departmental Supervisor and/or staff designated by the Chief Probation Officer, along with another Departmental staff person as a witness, and consistent with Department policy regarding administrative searches.

In the event that an armed officer is placed on administrative leave and/or separated from the Yolo County Probation Department, the Rangemaster and/or designee and another designated staff person will remove and retain the Departmental issued firearm from that armed officer. The officer will be provided a receipt for all Departmental property removed and retained.

\* Reference: Departure Interview and Property Check List

### **720.5 ALLEGATIONS OF CRIMINAL CONDUCT**

Where an employee of this Department is accused of potential criminal conduct, a separate administrative investigation may parallel a criminal investigation.

The Chief Probation Officer shall be notified as soon as practicable when an employee is formally accused of criminal conduct. In the event of serious criminal allegations, the Chief Probation Officer may request a criminal investigation by an outside law enforcement agency.

An employee accused of criminal conduct shall be provided with all rights and privileges afforded to a civilian.

Any law enforcement agency is authorized to release information concerning the arrest or detention of a peace officer, which has not led to a conviction; however, no disciplinary action, shall be taken against the accused employee based solely on an arrest or crime report. (Labor Code § 432.7(b).) An independent administrative investigation of the allegations in the report shall be conducted in accordance with Department policy.

### **720.6 ADMINISTRATIVE INVESTIGATIONS**

Allegations of misconduct will be administratively investigated as follows.

#### **720.6.1 ADMINISTRATIVE INVESTIGATION PROCEDURES**

Whether conducted by a Supervisor or an assigned Internal Affairs Officer, all administrative investigations of public safety officers shall be conducted in accordance with the Public Safety Officers Procedural Bill of Rights Act. (POBRA) (Gov. Code §§ 3300, et. seq.) The following additional rules apply to all administrative investigations conducted by the Yolo County Probation Department:

##### **A. Notice of the Nature of the Investigation**

1. Prior to any interview, a subject employee shall be informed of the nature of the investigation; the name, rank and command of the officer in charge of the investigation; the names of the interviewing officers and all other persons to be present during the interview.
2. "Nature of the investigation" means, at a minimum, the date(s), time(s) and places the misconduct is alleged to have occurred; the name(s) of the complainant(s); any

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associated report numbers; the policy, rule, law or regulation the subject employee is alleged to have violated.

3. Notice to the subject employee of the nature of the investigation shall occur within a reasonable time before the interrogation to allow the subject employee meaningful time to consult with any representative the employee elects to have present at the interrogation. In cases where notice before the interrogation would risk the safety of involved parties or of evidence in the officer's control, the investigator may withhold notice until the scheduled interrogation.

### B. Criminal Matters

1. In any administrative investigation that might incriminate the subject employee in a criminal matter, the employee shall be given an order to answer questions only after the employee has been given a "Lybarger advisement".

2. Before proceeding with any such interrogation, administrative investigators should consider the impact that compelling a statement from the subject employee may have on any related criminal investigation and should take reasonable steps to avoid creating any 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).

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

### C. Recordings, Transcripts and Subsequent Interviews

1. The interviewer should record all interviews of subjects and witnesses. The subject officer also may record the interview.

2. If the officer has been previously interviewed, a copy of that recorded interview or a transcript thereof, if available, shall be provided to the member prior to any subsequent interview.

D. No "Huddling": In order to maintain the integrity of each individual's statement, involved members shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed.

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

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### 720.6.2 NOTICE TO COMPLAINANT OF INVESTIGATION STATUS

The employee supervising or conducting the investigation may provide the complainant with updates on the status of the investigation, upon request of the complainant. The Chief Probation Officer or designee, will notify the complainant of the final disposition when the investigation has been completed..

### 720.7 DISPOSITION OF PERSONNEL COMPLAINTS

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

**Unfounded** - When the investigation discloses that the alleged act(s) did not occur or did not involve department personnel. Complaints which are determined to be frivolous will fall within the classification of unfounded. (Pen. Code § 832.5(c).)

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

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

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

If the Probation Department determines a civilian complaint is false, the Chief Probation Officer or designee shall forward the results of its investigation to the Office of the District Attorney for prosecution. False complaints shall not be made part of a peace officer's personnel file.

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.

### 720.8 COMPLETION OF INVESTIGATIONS

Every investigator or Supervisor assigned to investigate a personnel complaint or other alleged misconduct shall proceed with due diligence in an effort to complete the investigation within one year from the date of discovery by an individual authorized to initiate an investigation. In the event that an investigation cannot be completed within one year of discovery, the assigned investigator or Supervisor shall ensure that an extension or delay is warranted within the exceptions set forth in Government Code sections 3304(d) or 3508.1. If the nature of the allegations dictate that confidentiality is necessary to maintain the integrity of the investigation, the involved employee(s) need not be notified of the pending investigation unless and until the employee is interviewed or formally charged within one year of discovery.

Government Code sections 3304(d) or 3508.1. If the nature of the allegations dictate that confidentiality is necessary to maintain the integrity of the investigation, the involved employee(s) need not be notified of the pending investigation unless and until the employee is interviewed or formally charged within one year of discovery.

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Upon completion, the investigator's report should be provided to the employee's Division Manager or Superintendent of the Juvenile Detention Facility depending on the employee's assignment. The Division Manager or Superintendent of the Juvenile Detention Facility may accept the report or refer it back to the investigator or Supervisor for further investigation.

Once the report has been deemed complete by the Division Manager or Superintendent of the Juvenile Detention Facility the report and a recommendation for specific discipline or no discipline will be made by the Division Manager or Superintendent of the Juvenile Detention Facility to the Chief Probation Officer.

Once received, the Chief Probation Officer may accept or modify the recommendation regarding disciplinary action contained in the report.

Within 30 days of the final review by the Chief Probation Officer, written notice of the findings shall be sent to the complaining party. This notice shall indicate the findings, however, will not disclose the amount of discipline, if any imposed. The complaining party should also be provided with a copy of his or her own original complaint. (Pen. Code § 832.7.)

Any complaining party who is not satisfied with the findings of the Department concerning their complaint may contact the Chief Probation Officer to discuss the matter further.

#### 720.8.1 CONFIDENTIALITY OF PERSONNEL FILES

All investigations of personnel complaints, whether originating from a civilian or internally, shall be considered confidential peace officer personnel files. The contents of such files shall only be revealed to the involved employee or authorized personnel except pursuant to lawful process.

In the event that an accused employee (or the representative of such employee) knowingly makes false representations regarding any internal investigation and such false representations are published by an established medium of communication, the Department may disclose sufficient information from the employee's personnel file to refute such false representations. (Pen. Code § 832.7(e.))

All sustained civilian complaints shall be maintained for a period of at least five years. (Pen. Code § 832.5.) All internally initiated complaints shall be maintained at least two years. (Gov. Code § 34090 et seq.)

Sustained complaints shall be maintained in the employee's personnel file. Complaints which are unfounded, exonerated or not sustained shall be maintained by the office of the Chief Probation Officer apart from the employee's personnel file.

## Bomb Threat

### 722.1 PURPOSE AND SCOPE

This procedure applies to **any and all bomb threats** received, including those that may extend beyond the Department buildings or employees.

This policy and all employee actions shall be governed by the overriding concern for safety and security.

Each employee shall keep the County adopted "Threatening Call Checklist" readily available at his or her workstation at all times. Copies can be found on the this Department's "S-Drive" under the file name "Threatening Call Checklist."

#### 722.1.1 RESPONSIBILITY

It is the responsibility of all staff to respond to a bomb threat received by him or her. Primary responsibilities in such an event include:

- Gathering as much information as possible concerning the potential threat.
- Immediately notifying his or her Supervisor or the next higher ranking staff person available of the potential danger.
- Calling **911** to inform emergency responders of the threat.
- Deciding whether to implement the Department's Emergency Evacuation Plan.

#### 722.1.2 GATHERING INFORMATION AND EVACUATION

The following are the Department's procedures for gathering information about the threat:

- (a) When receiving threatening information, the employee should gather as much information as possible concerning the potential threat. Should the information come via a phone call, do the following:
  - Refer to the "Threatening Call Checklist" found on the Department's "S-Drive".
  - Keep the caller on the line as long as possible. Ask the caller to repeat the message. If possible, write down every word spoken by the person making the call.
  - If the caller does not indicate the location of the bomb or the time or possible detonation, the employee should ask the caller to provide this information.
  - It may be advisable to inform the caller that the building is occupied and the detonation of a bomb could result in death or serious injury to many innocent people.
  - Pay particular attention to any strange or peculiar background noises, such as motors running, background music and the type of music, and any other noises that might indicate the place from which the call is being made.
  - Listen closely to the voice (male/female), voice quality, accents and speech impediments.

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- (b) During the time the above information is being gathered, an attempt should be made to simultaneously inform the immediate Supervisor, or any Supervisor in the immediate area.
- (c) Once the information has been received and communicated to the Supervisor or Manager, steps shall be taken to notify the Chief Probation Officer.
- (d) Management and Supervisory personnel shall then coordinate to evacuate the building, using the evacuation procedures.
- (e) It is also the responsibility of Managers and Supervisors or designees to ensure that all personnel have been notified and the building has been evacuated

The building shall not be reoccupied for any purpose until an "all clear" has been issued by law enforcement.

In the event no Management or Supervisory personnel are in the building or can be contacted, the person receiving the emergency or threatening information shall, as soon as possible, have the building evacuated and call 911 to notify emergency responders of the threat and status of the building's evacuation. Once the building has been evacuated, efforts shall continue to be made to contact Managers or Supervisors.

Specialized assignments may be required of employees, depending on the scope and duration of the emergency.

#### 722.1.3 DESIGNATED OUTSIDE GATHERING LOCATIONS

The designated meeting places shall be:

- Employee parking lot on the northwest side of the office located at 2780 E. Gibson Road (Bomb Threats for the field office located at this site).
- Employee parking lot on the northwest side of the office located at 2780 E. Gibson Road (Bomb Threats for the Juvenile Detention Facility) for non-sworn staff. Minors and detention staff within the facility will meet in the outside recreation area of the facility.
- Employee parking lot on southwest side of the West Sacramento Regional Office complex located at 500 Jefferson Blvd. (Bomb Threats to the County office complex including the Probation field office located at this site).
- Parking lot of Woodland Public Library located at 250 First Street, Woodland.(Bomb threats for the main Probation Department office located in the Historic Courthouse at 725 Court Street, Woodland)

#### 722.1.4 RECOVERY

The following guidelines are to be applied once it is determined that the Department facilities are safe to re-enter:

- (a) **Return to Building** -Management, in coordination with emergency responders, will verify structural and other safety-related concerns prior to re-entry. If re-entry is impossible due to safety concerns, the Chief Probation Officer will communicate with the County Administrator to designate an alternative work site. No re-entry to any

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building shall occur until the appropriate responding emergency agency has given the Chief Probation Officer or designee full clearance to do so.

- (b) **Clean-up and Restoration** - Clean-up and restoration will be coordinated by County General Services Department, with such assistance as can be provided by the Department.
- (c) **Business Interruption** - Business will be resumed at the earliest convenience, either at the regular site or an alternate location.

## Seat Belts

### 723.1 PURPOSE AND SCOPE

The use of seat belts and other safety restraints significantly reduces the chance of death or injury in case of a traffic collision. This policy establishes guidelines for seat belt and child safety seat use to promote maximum operator and passenger safety, thus reducing the possibility of death or injury as the result of a motor vehicle crash. This policy will apply to all employees operating or riding in Department vehicles. (Veh. Code § 27315.5.)

### 723.2 WEARING OF SAFETY RESTRAINTS

All employees shall wear properly adjusted safety restraints when operating or riding in a seat equipped with restraints, in any vehicle owned, leased or rented by this Department while on or off-duty, or in any privately owned vehicle while on-duty. The employee driving such a vehicle shall ensure that all other occupants, including non-employees, are also properly restrained.

Exceptions to the requirement to wear safety restraints may be made only in exceptional situations where, due to unusual circumstances, wearing a seat belt would endanger the employee or the public. Employees must be prepared to justify any deviation from this requirement.

#### 723.2.1 TRANSPORTING CHILDREN

Children under the age of eight shall be transported in compliance with California's restraint system requirements. (Veh. Code § 27360.)

A child may be transported by sworn personnel without the use of a child passenger restraint system in an authorized emergency vehicle if a child passenger restraint system is unavailable and the child is secured by a seat belt. (Veh. Code § 27363(b).)

Employees shall deactivate, if available, the passenger side airbag when appropriate, such as when transporting a rear-facing infant or child in the front seat.

### 723.3 TRANSPORTING PRISONERS

Whenever possible, prisoners shall be secured in the prisoner restraint system in the rear seat of the Department vehicle or, when a prisoner restraint system is not available, by seat belts. The prisoner should be in seating position for which seat belts have been provided by the vehicle manufacturer. The prisoner restraint system is not intended to be a substitute for handcuffs or other appendage restraints.

### 723.4 INOPERABLE SEAT BELTS

No employee shall operate a Department vehicle in which the seat belt in the driver's position is inoperable. No person shall be transported in a seated position in which the seat belt is inoperable.

No employee shall modify, remove, deactivate or otherwise tamper with the vehicle safety belts.

Employees who discover an inoperable restraint system shall report the defect to the appropriate Supervisor. Prompt action will be taken to replace or repair the system.

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### **723.5 VEHICLE AIRBAGS**

In all vehicles equipped with airbag restraint systems, the system will not be tampered with or deactivated, except when transporting children as indicated elsewhere in this policy. All equipment installed in vehicles equipped with airbags will be installed as per the vehicle manufacturer specifications to avoid the danger of interfering with the effective deployment of the airbag device.

## Personnel Records

### 727.1 PURPOSE AND SCOPE

This policy governs maintenance and access to personnel records. Personnel records include any file maintained under an individual employee's name.

### 727.2 POLICY

It is the policy of this Department to maintain personnel records and preserve the confidentiality of personnel records pursuant to the Constitution and the laws of California. (Pen. Code § 832.7.)

### 727.3 EMPLOYEE RECORD LOCATIONS

Employee records will generally be maintained in any of the following:

**Department File** - That file maintained by the office of the Chief Probation Officer as a permanent record of a sworn officer's employment with this Department.

\* The official County employee personnel file is maintained by the Yolo County Human Resources Department.

**Supervisor File** - Any file that is separately maintained by an Supervisor for the purpose of completing employee performance evaluations. Supervisor log entries in the file are any written comments, excluding actual performance evaluations, made by a Supervisor concerning the conduct of an employee of this Department.

**Training File** - Any file that documents an employee's training.

**Internal Affairs Files** - Any files that contain complaints of employee misconduct and all materials relating to the investigation into such allegations, regardless of disposition.

**Medical File** - Any file that contains material relating to an employee's medical history.

### 727.4 DEPARTMENT FILE

The Department file may contain, but is not limited to, the following:

- (a) Performance evaluation reports regularly completed by an appropriate Supervisor and signed by the affected employee.
- (b) Records of all transcripts, diplomas and education.
- (c) Disciplinary action:
  1. Resulting from sustained internally initiated complaints or observation of misconduct shall be maintained pursuant to established records retention schedule and at least two years. (Govt. Code § 26202; Govt. Code § 34090.)
  2. Resulting from a sustained civilian complaint, which shall be destroyed after five years except as otherwise provided in this policy.

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- (d) Adverse comments such as Supervisor log entries which may be retained in the Department file or Supervisor file after the employee has had the opportunity to read and initial the comment and for a period up to two years. (Gov. Code § 3305.)
  - 1. Once an employee has had an opportunity to read and initial any adverse comment prior to entry into a file, the employee shall be given the opportunity to respond in writing to such adverse comment within 30 days. (Gov. Code § 3306.)
  - 2. Any such employee response shall be attached to and retained with the original adverse comment.
  - 3. If an employee refuses to initial or sign an adverse comment, at least one Supervisor should note the date and time of such refusal on the original comment. Such a refusal, however, shall not be deemed insubordination nor shall it prohibit the entry of the adverse comment into the employee's file.
- (e) Commendations shall be retained in the employee's Department file, with a copy provided to the employee.
- (f) Personnel Action Reports reflecting assignments, promotions and other changes in the employee's status.
- (g) A photograph of the employee.

Investigations of complaints that result in a finding of not-sustained, unfounded or exonerated shall not be placed in the employee's Department file, but will be separately maintained for the appropriate retention period in the Internal Affairs file.

#### **727.5 SUPERVISOR FILE**

Supervisor files may be maintained by a Supervisor for the purpose of completing employee performance evaluations. The Supervisor file may contain Supervisor comments, notes, notices to correct and other materials that are intended to serve as a foundation for the completion of timely performance evaluations.

All materials intended for this file shall be provided to the employee prior to being placed in the file in accordance with Government Code sections 3305 and 3306.

Duplicate copies of items that will also be included in the employee's Department file may be placed in this file in anticipation of completing of an upcoming performance evaluation.

Once the permanent performance evaluation has been made final, any material(s) and copies should be purged from the Supervisor's file in accordance with this policy.

#### **727.6 TRAINING FILE**

An individual training file shall be maintained by the Probation Department's Human Resources staff for each employee. Training files will contain records of all training; original or photocopies of available certificates, other documentation including policy acknowledgements and firearms qualifications. Training records may also be created and stored remotely, either manually or electronically (e.g., Daily Training Bulletin (DTB) records).

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- (a) Employees are responsible for providing the Probation Department's Human Resources staff with evidence of completed training/education in a timely manner.
- (b) The Probation Department's Human Resources staff or Supervisor shall ensure copies of such training records are placed in the employee's training file.

#### **727.7 INTERNAL AFFAIRS FILE**

Internal Affairs files shall be maintained under the exclusive control of the Chief Probation Officer or designee. Access to these files may only be granted by the Chief Probation Officer or the Assigned Internal Affairs Officer supervisor.

These files shall contain the complete investigation of all complaints of member misconduct, regardless of disposition. (Pen. Code § 832.12.) Investigations of complaints that result in the following findings shall not be placed in the employee's file but will be maintained in the internal affairs file:

- (a) Not sustained
- (b) Unfounded
- (c) Exonerated

Each investigation file shall be sequentially numbered within a calendar year (e.g., yy-001, yy-002).

Investigation files arising out of civilians' complaints shall be maintained pursuant to the established records retention schedule and for a period of at least five years. Investigations that resulted in a finding other than sustained may not be used by the Department to adversely affect and employee's career. (Pen. Code § 832.5.)

#### **727.8 MEDICAL FILE**

An employee's medical file is maintained by the Yolo County Human Resources Department.. The medical file shall be maintained separately from all other personnel records and shall contain all documents relating to the employee's medical condition and history, including but not limited to:

- (a) Materials relating to a medical leave of absence, including leave under the Family and Medical Leave Act (FMLA).
- (b) Documents relating to workers' compensation claims or the receipt of short- or long-term disability benefits.
- (c) Fitness-for-duty examinations, psychological and physical examinations, follow-up inquiries and related documents.
- (d) Medical release forms, doctor's slips and attendance records that reveal an employee's medical condition.
- (e) Any other documents or materials that reveal the employee's medical history or medical condition, including past, present or future anticipated mental, psychological or physical limitations.

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### **727.9 RETENTION AND PURGING**

Civilian complaints and all related files not the subject of litigation or other ongoing legal proceedings may be purged no earlier than five years from the underlying complaint date. (Pen.Code § 832.5.)

- (a) The Chief Probation Officer or designee shall determine whether any prior sustained disciplinary file should be retained beyond the statutory period for reasons other than pending litigation or other ongoing legal proceedings. The employee shall be notified if a file is to be retained. If, in the opinion of the Chief Probation Officer, a complaint or disciplinary action beyond the statutory retention period is no longer relevant, all records of such matter shall be destroyed.
- (b) During the preparation of each employee's performance evaluation, complaints and discipline should be reviewed to determine the relevancy, if any, to progressive discipline, training and career development.

Unless provided otherwise in this policy, personnel records shall be maintained in accordance with the established records retention schedule.

#### **727.9.1 REQUESTS FOR DISCLOSURE**

Any employee receiving a request for a personnel record shall promptly notify the Department Custodian of Records or other person charged with the maintenance of such records.

Upon receipt of any such request, the responsible person shall notify the affected employee as soon as practicable that such a request has been made. (Evid. Code § 1043.)

The responsible person shall further ensure that an appropriate response to the request is made in a timely manner, consistent with applicable law. In many cases, this may require assistance of available legal counsel.

All requests for disclosure that result in access to an employee's personnel records shall be logged in the corresponding file.

#### **727.9.2 RELEASE OF PERSONNEL INFORMATION**

Personnel records shall not be disclosed except as allowed by law. (Pen. Code § 832.7; Evid. Code § 1043.)

Any person who maliciously, and with the intent to obstruct justice or the due administration of the laws, publishes, disseminates, or otherwise discloses the residence address or telephone number of any employee of this Department may be guilty of a misdemeanor. (Pen. Code § 146e.)

The Department may release any factual information concerning a disciplinary investigation if the member who is the subject of the investigation (or the member's representative) publicly makes a statement that is published in the media and that the member (or representative) knows to be false. The disclosure of such information, if any, shall be limited to facts that refute any such false statement. (Pen. Code § 832.7.)

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Pursuant to Penal Code section 832.7(e), the disposition of any civilian complaint shall be released to the complaining party within 30 days of the final disposition. This release shall be limited to the disposition and shall not include what discipline, if any, was imposed.

### **727.10 RELEASE OF PERSONNEL RECORDS AND RECORDS RELATED TO CERTAIN INCIDENTS, COMPLAINTS, AND INVESTIGATIONS OF OFFICERS**

Personnel records and records related to certain incidents, complaints, and investigations of officers shall be released pursuant to a proper request under the Public Records Act and subject to redaction and delayed release as provided by law.

The Chief Probation Officers shall consult with the Office of County Counsel in determining what records may qualify for disclosure when a request for records is received and if the requested record is subject to redaction or delay from disclosure.

For purposes of this section, a record includes :

- All investigation reports.
- Photographic, audio, and video evidence.
- Transcripts or recordings of interviews.
- Autopsy reports.
- All materials compiled and presented for review to the District Attorney or to any person or body charged with determining whether to file criminal charges against an officer in connection with an incident, or whether the officers actions were consistent with law and Department policy for purposes of discipline or administrative action, or what discipline to impose or corrective action to take.
- Documents setting forth findings or recommending findings.
- Copies of disciplinary records relating to the incident, including any letters of intent to impose discipline, any documents reflecting modifications of discipline due to the pre-disciplinary or grievance process, and letters indicating final imposition of discipline or other documentation reflecting implementation of corrective action. (Pen. Code §832.7(b)(2).)

Unless a record or information is confidential or qualifies for delayed disclosure as provided by Penal Code section 832.7(b)(7) or other law, the following records may be made available for public inspection upon request :

- (a) Records relating to the report, investigation, or findings of:
  1. The discharge of a firearm at another person by an officer.
  2. The use of force against a person resulting in death or in great bodily injury (as defined by Pen. Code § 243(f)(4)) by an officer.
- (b) Records relating to an incident where a sustained finding was made by the Department or oversight agency regarding:

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1. An officer engaged in sexual assault of a member of the public ( Pen. Code § 832.7(b)).
2. Dishonesty of an officer relating to the reporting, investigation, or prosecution of a crime, or directly relating to the reporting of, or investigation of misconduct by, another officer, including but not limited to any sustained finding of perjury, false statements, filing false reports, destruction, falsifying, or concealing of evidence.

A record from a separate and prior investigation or assessment of a separate incident shall not be released unless it is independently subject to disclosure. (Pen. Code § 832.7(b)(3).)

When an investigation involves multiple officers, the Department shall not release information about allegations of misconduct or the analysis or disposition of an investigation of an officer unless it relates to a sustained finding of a qualified allegation as provided by Penal Code section 832.7(b)(4) against the officer. However, factual information about the action of the officer during an incident or the statements of an officer shall be released if the statements are relevant to a sustained finding of the qualified allegation against another officer that is subject to release. (Pen. Code § 832.7(b)(4).)

#### 727.10.1 REDACTION

The Custodian of Records, in consultation with the Chief Probation Officer or authorized designee and Office of County Counsel, shall redact the following portions of records made available for release (Pen. Code § 832.7(b)(5)):

- (a) Personal data or information (e.g., home address, telephone number, identities of family members) other than the names and work-related information of officers.
- (b) Information that would compromise the anonymity of complainants and witnesses
- (c) Confidential medical, financial, or other information where disclosure is prohibited by federal law or would cause an unwarranted invasion of personal privacy that clearly outweighs the strong public interest in records about misconduct and serious use of force.
- (d) Where there is a specific, articulable, and particularized reason to believe that disclosure of the record would pose a significant danger to the physical safety of the officer or another person.

Additionally, a record may be redacted, including redacting personal identifying information, where, on the facts of the particular case, the public interest served by not disclosing the information clearly outweighs the public interest served by disclosing it. (Pen. Code § 832.7(b)(6).)

#### 727.10.2 DELAY OF RELEASE

Unless otherwise directed by the Chief Probation Officer, the Custodian of Records should consult with a supervisor familiar with the underlying investigation to determine whether to delay disclosure of records relating to the discharge of a firearm or use of force resulting in death or in great bodily injury due to any of the following conditions. (Pen. Code § 832.7):

- (a) Active criminal investigations:

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1. Disclosure may be delayed 60 days from the date the use of force occurred or until the District Attorney determines whether to file criminal charges, whichever occurs sooner.
  2. After the initial 60 days, delay of disclosure may be continued if the disclosure could reasonably be expected to interfere with a criminal enforcement proceeding against an officer or against someone other than an officer who used the force.
- (b) Filed criminal charges:
1. When charges are filed related to an incident where force was used, disclosure may be delayed until a verdict on those charges is returned at trial or, if a plea of guilty or no contest is entered, the time to withdraw the plea has passed.
- (c) Administrative investigations:
1. Disclosure may be delayed until whichever occurs later:
    - (a) There is a determination from the investigation whether the use of force violated law or Department policy, but no longer than 180 days after the date of the Department's discovery of the use of force or allegation of use of force.
    - (b) Thirty days after the close of any criminal investigation related to the officer's use of force.

#### 727.10.3 NOTICE OF DELAY OF RECORDS

When there is justification for delay of disclosure of records relating to the discharge of a firearm or use of force resulting in death or in great bodily injury during an active criminal investigation, the Custodian of Records shall provide written notice of the reason for any delay to a requester as follows (Pen. Code § 832.7):

- (a) Provide the specific basis for the determination that the interest in delaying disclosure clearly outweighs the public interest in disclosure. The notice shall also include the estimated date for the disclosure of the withheld information.
- (b) When delay is continued beyond the initial 60 days because of criminal enforcement proceedings against anyone, at 180-day intervals provide the specific basis that disclosure could reasonably be expected to interfere with a criminal enforcement proceeding and the estimated date for disclosure.
  1. Information withheld shall be disclosed when the specific basis for withholding the information is resolved, the investigation or proceeding is no longer active, or no later than 18 months after the date of the incident, whichever occurs sooner, unless:
    - (a) When the criminal proceeding is against someone other than an officer and there are extraordinary circumstances to warrant a continued delay due to the ongoing criminal investigation or proceeding, then the Department must show by clear and convincing evidence that the interest in preventing prejudice to the active and ongoing criminal investigation or proceeding

## *Personnel Records*

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outweighs the public interest for prompt disclosure of records about use of serious force by an officer.

In cases where an action to compel disclosure is brought pursuant to Government Code section 6258, the Department may justify delay by filing an application to seal the basis for withholding if disclosure of the written basis itself would impact a privilege or compromise a pending investigation. (Pen. Code § 832.7(b)(7).)

### **727.11 EMPLOYEE ACCESS TO HIS/HER OWN PERSONNEL RECORDS**

Any employee may request access to his/her own personnel records during the normal business hours of those responsible for maintaining such files. Any member seeking the removal of any item from his/her personnel records shall file a written request to the Chief Probation Officer through the chain of command. The Department shall remove any such item if appropriate, or within 30 days provide the member with a written explanation of why the contested item will not be removed. If the contested item is not removed from the file, the member's request and the written response from the Department shall be retained with the contested item in the member's corresponding personnel record. (Gov. Code § 3306.5.)

Members may be restricted from accessing files containing any of the following information:

- (a) An ongoing internal affairs investigation to the extent that it could jeopardize or compromise the investigation pending final disposition or notice to the member of the intent to discipline.
- (b) Confidential portions of internal affairs files that have not been sustained against the member.
- (c) Criminal investigations involving the member.
- (d) Letters of reference concerning employment/appointment, licensing or issuance of permits regarding the member.
- (e) Any portion of a test document, except the cumulative total test score for either a section of the test document or for the entire test document.
- (f) Materials used by the Department for staff management planning, including judgments or recommendations concerning future salary increases and other wage treatments, management bonus plans, promotions and job assignments or other comments or ratings used for department planning purposes.
- (g) Information of a personal nature about a person other than the member if disclosure of the information would constitute a clearly unwarranted invasion of the other person's privacy.
- (h) Records relevant to any other pending claim between the Department and the member that may be discovered in a judicial proceeding.

## Fitness for Duty

### 728.1 PURPOSE AND SCOPE

All officers are required to be free from any physical, emotional, or mental condition that might adversely affect the exercise of peace officer powers. The purpose of this policy is to ensure all officers of this Department remain fit for duty and able to perform their job functions. (Gov. Code § 1031.)

### 728.2 EMPLOYEE RESPONSIBILITIES

- (a) It shall be the responsibility of each sworn employee of this Department to maintain good physical condition sufficient to safely and properly perform the essential duties of their position.
- (b) Each sworn employee of this Department shall be free from any physical, emotional, or mental condition that might adversely affect the exercise of the powers of a peace officer..
- (c) During working hours, all employees are required to be alert, attentive, and capable of performing his or her assigned responsibilities.
- (d) Any sworn employee who feels unable to perform his or her duties shall notify a Supervisor promptly. In the event an employee believes another employee is unable to perform his or her duties, such observations and/or belief shall be reported promptly to a Supervisor.

### 728.3 SUPERVISOR RESPONSIBILITIES

- (a) A Supervisor observing an employee who is, or receiving a report of an employee who is perceived to be, unable to perform safely his or her duties due to a physical or mental condition shall take prompt and appropriate action in an effort to resolve the situation.
- (b) A preliminary evaluation should be made in an effort to determine the level of inability, if any, of the employee to perform his or her duties.
- (c) In the event the employee appears to be in need of immediate medical or mental health treatment, all reasonable efforts should be made to provide such care.
- (d) In conjunction with Management , a determination should be made whether or not the employee should be temporarily relieved from his or her duties.
- (e) The Chief Probation Officer shall be notified promptly in the event that any employee is relieved from duty.

### 728.4 NON-WORK RELATED CONDITIONS

Any employee suffering from a non-work related condition which warrants a temporary relief from duty may be required to use sick leave or other paid time off (PTO) in order to obtain medical treatment or a reasonable rest period.

## *Fitness for Duty*

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### **728.5 WORK RELATED CONDITIONS**

Any employee suffering from a work related condition that warrants a temporary relief from duty shall be required to comply with personnel rules and guidelines for processing such claims.

Upon the recommendation of the Supervisor and with the concurrence of Management any employee whose actions or use of force in an official capacity result in death or serious injury to another may be removed temporarily from regularly assigned duties and/or placed on paid administrative leave for the wellbeing of the employee and until such time as the following may be completed:

- (a) A preliminary determination that the employee's conduct appears to be in compliance with policy and, if appropriate.
- (b) The employee has had the opportunity to receive necessary counseling and/or psychological clearance to return to full duty.

### **728.6 PHYSICAL AND PSYCHOLOGICAL EXAMINATIONS**

- (a) Whenever circumstances reasonably indicate an employee is unfit for duty, the Chief Probation Officer may serve that employee with a written order to undergo a physical and/or psychological examination in cooperation with the Department of Human Resources to determine the level of the employee's fitness for duty. The order shall indicate the date, time and place for the examination.
- (b) Any employee ordered to receive a fitness-for-duty examination shall comply with the terms of the order and cooperate fully with the examining physician or therapist regarding any clinical interview, tests administered or other procedures as directed. Any failure to comply with such an order and any failure to cooperate with the examining physician or therapist may be deemed insubordination and shall be subject to discipline up to and including termination. However, the employee will not be required to waive any limitations on the disclosure of such information that are otherwise imposed by law.
- (c) The examining physician or therapist will provide the Department with a report indicating that the employee is either fit for duty or, if not, listing any functional limitations limit the employee's ability to perform job duties. (Civ. Code § 56.10 (c)(8) (A).) If the employee places his or her condition at issue in any subsequent or related administrative action/grievance, the examining physician or therapist may be required to disclose any and all information which is relevant to such proceeding. (Civ. Code § 56.10(c)(8)(B).)
- (d) In order to facilitate the examination of any employee, the Department will provide all appropriate documents and available information to assist in the evaluation and/or treatment.
- (e) All reports and evaluations submitted by the treating physician or therapist shall be part of the employee's confidential medical personnel file
- (f) Once an employee has been deemed fit for duty by the examining physician or therapist, the employee will be notified to resume his or her duties.

## *Fitness for Duty*

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### **728.7 LIMITATION ON HOURS WORKED**

Absent emergency situations, employees should not work more than

- 16 hours in one (24 hour) period. Except in very limited circumstances employees should have a minimum of 8 hours off between shifts. Supervisors should give consideration to reasonable rest periods and are authorized to deny overtime or relieve to off-duty status any employee who has exceeded the above guidelines.

Limitations on the number of hours worked apply to shift changes, shift trades, rotation, holdover, training, general overtime and any other work assignments.

### **728.8 APPEALS**

An employee who is separated from paid employment or receives a reduction in salary resulting from a fitness-for-duty examination shall be entitled to an administrative appeal as outlined in the Personnel Complaints Policy and the Public Safety Officers Procedural Bill of Rights Act. (Gov. Code §§ 3300 et. seq.)

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## Transfer and Assignment Policy

### 730.1 PURPOSE AND SCOPE

Any assignment of staff to any specific workload is made to meet the needs of the Department and is subject to the direction and approval of the Chief Probation Officer. Assignment decisions are made by management after consideration of:

- Workload trends
- Existing vacancies
- Employee's special training
- Seniority and time in current assignment
- Performance in current or other assignments
- Employee's preference for an assignment
- Needs of the Court, clients, and/or community
- Employee's preference for work location
- Relationships with clients and co-workers

### 730.2 TRANSFER/ASSIGNMENT REQUESTS

An employee must perform at a level that meets standards and expectations in their current assignment before a transfer or re-assignment request shall be granted. Except for disciplinary transfers an employee's preference for a work assignment shall not be denied for punitive reasons. At no time shall the Department make a transfer decision to retaliate against an employee.

Every effort will be made to notify an employee in writing, via the chain of command, that he or she is being reassigned prior to that information being shared with the rest of the staff.

Workload or special events may create the need for a temporary or detached assignment of an employee either within the Department or outside of it, and the same criteria discussed above will be considered in these decisions. No employee shall be permanently transferred or reassigned between work sites and/or shifts without ten (10) working days prior written notice, or as specified in the applicable MOU's. No employee shall be temporarily transferred or reassigned without notice of at least five (5) days prior to said transfer; in case of emergency written notice will be provided as soon as practicable. An employee who is interested in voluntarily transferring to another division in the Department shall not be eligible for a transfer while in a "probationary" status for his or her current position.

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## Policy Manual

### *Transfer and Assignment Policy*

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A request for a transfer shall only be approved when such transfer meets the needs of the Department. In determining whether to approve a transfer request, management will consider the criteria listed above, and all transfers shall require the final approval of the Chief Probation Officer.

Employees requesting to transfer and/or be reassigned may make a formal request at any time.

For each division opening, the Department will first consider voluntary transfer requests meeting the eligibility criteria listed above. If there is no employee interested in a transfer to an opening in another division, the vacancy will be filled via that division's eligibility list or a new recruitment.

These provisions regarding transfer or reassignment of staff shall be strictly adhered to unless specified otherwise in bargaining unit MOU's or the Chief Probation Officer determines it is detrimental to the operation of the Department.

#### **730.3 CROSS TRAINING**

Upon staff receiving notice of assignment change, reasonable effort will be made to provide a minimum of five (5) days of cross training, between the outgoing incumbent and the new staff. Should the incumbent be unable to provide such cross-training, a Senior Officer from that unit will provide the cross training to ensure success within that new assignment. Should the new assignment require additional training, the immediate Supervisor will ensure the additional training is provided.

## Lactation Break Policy

### 736.1 PURPOSE AND SCOPE

The purpose of this policy is to provide reasonable accommodations to employees desiring to express breast milk for the employee's infant child. (Labor Code § 1034.)

### 736.2 POLICY

It is the policy of this Department to provide, in compliance with the Fair Labor Standards Act, reasonable break time and appropriate facilities to accommodate any employee desiring to express breast milk for her nursing infant child. (29 USC § 207 and Labor Code § 1030.)

### 736.3 LACTATION BREAK TIME

A rest period should be permitted each time the employee has the need to express breast milk. In general, lactation breaks that cumulatively total thirty (30) minutes or less during any four-hour work period or major portion of a four-hour work period would be considered reasonable. However, individual circumstances may require more or less time. Such breaks, if feasible, should be taken at the same time as the employee's regularly scheduled rest or meal periods.

While a reasonable effort will be made to provide additional time beyond authorized breaks, any such time exceeding regularly scheduled and paid break time will be unpaid.

Employees desiring to take a lactation break shall notify a Supervisor prior to taking such a break. Such breaks may be reasonably delayed if they would seriously disrupt Department operations.

Once a lactation break has been approved, the break should not be interrupted except for emergency or exigent circumstances.

### 736.4 PRIVATE LOCATION

The Department will make reasonable efforts to accommodate employees with the use of an appropriate room or other location to express milk in private. Such room or place should be in close proximity to the employee's work area and shall be other than a bathroom or toilet stall. The location must be shielded from view and free from intrusion from co-workers and the public (29 USC § 207; Labor Code § 1031).

Employees occupying such private areas shall either secure the door or otherwise make it clear to others that the area is occupied with a need for privacy. All other employees should avoid interrupting an employee during an authorized break, except to announce an emergency or other urgent circumstance.

Authorized lactation breaks for employees assigned to the field may be taken at the nearest appropriate private area.

## *Lactation Break Policy*

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### **736.5 STORAGE OF EXPRESSED MILK**

Any employee storing expressed milk in any authorized refrigerated area within the Department shall clearly label it as such and shall remove it when the employee ends her shift.

## Jury Duty

### 738.1 POLICY

Any permanent employee who is summoned for jury duty in any Court during scheduled working hours shall be considered to be on duty, and there shall be no loss of salary. Any fees received by the employee shall be paid/transferred to the Yolo County Auditor, with the exception of travel pay, which may be kept by the employee.

- (a) Upon receiving a summons for jury duty, the employee will advise the Supervisor as soon as possible of the date and time.
- (b) If the employee is excused from jury duty before the end of regular working hours, he or she will contact his or her Supervisor informing them of the early release.

## **Military Leave**

### **740.1 POLICY**

In compliance with the provisions of Section 395.01 of the Military and Veterans Code, Yolo County Probation Department employees are entitled to take up to thirty (30) days paid temporary military leave per fiscal year for active National Guard or Reserve duty. Additional paid military leave may be provided pursuant to the MOU for the employee's bargaining unit.

Department employees who are members of the National Guard or Reserves must notify their Supervisor in advance of their training schedule and provide supporting documentation so that the required time off may be scheduled; however, requests for time off based on military necessity or emergency shall not be denied.

## Outside Employment

### 741.1 PURPOSE AND SCOPE

In order to avoid actual or perceived conflicts of interest for Departmental employees engaging in outside employment, all employees shall obtain written approval from the Chief Probation Officer prior to engaging in any outside employment. Approval of outside employment shall be at the discretion of the Chief Probation Officer in accordance with the provisions of this policy.

#### 741.1.1 DEFINITIONS

**Outside Employment** - Any employment of a Department employee for wages, compensation or other consideration of value from another employer, organization or individual not affiliated directly with this Department for services, product(s) or benefits rendered. For purposes of this section, the definition of outside employment includes self-employment not affiliated directly with this Department for services, product(s) or benefits rendered.

### 741.2 OBTAINING APPROVAL

No employee of this Department may engage in any outside employment without first obtaining prior written approval from the Chief Probation Officer. Failure to obtain prior written approval for outside employment or engaging in outside employment prohibited by this policy may lead to disciplinary action up to and including termination.

In order to obtain approval for outside employment, the employee must complete a "Notification of Outside Employment" application form (located on the Department's shared "S"-Drive), which shall be submitted to the employee's immediate Supervisor. The applications must be forwarded through the chain of command for consideration to the Chief Probation Officer or designee who will, respond to the employee within thirty (30) days following the request. All annual and/or renewal requests for continued outside employment must be submitted to the Chief Probation Officer or designee by written memo and/or email, and determination will be provided to the employee no less than ten (10) days following the request.

If approved, the employee will be provided with a copy of the approved application. Unless otherwise indicated in writing on the approved application form, the permission for outside employment will be valid through the end of the calendar year in which the request was approved. Any employee seeking to renew an outside employment request shall submit a new Notification of Outside Employment application in a timely manner.

Any peace officer seeking approval of outside employment, whose request has been denied pursuant to Government Code section 1126, shall be provided with a written reason for the denial of the application at the time of the denial and an opportunity to appeal the decision. (Pen. Code § 70(e)(3); Gov. Code § 1126(c).)

## *Outside Employment*

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### 741.2.1 APPEAL OF DENIAL OF OUTSIDE EMPLOYMENT

If an employee's Outside Employment Application is denied by the Department, the employee may file a written notice of appeal to the Chief Probation Officer within ten (10) days of the date of denial. Written response to all appeals shall be provided to the employee within ten (10) working days of receipt.

### 741.2.2 REVOCATION/SUSPENSION OF OUTSIDE EMPLOYMENT PERMITS

Any outside employment permit may be revoked or suspended under the following circumstances:

- (a) Should an employee's performance at this Department decline to a point where it is evaluated by a Supervisor as needing improvement to reach an overall level of competency, the Chief Probation Officer may, at his or her discretion, revoke any previously approved outside employment permit(s). That revocation will stand until the employee's performance has been re-established at a satisfactory level and his or her Supervisor recommends reinstatement of the outside employment permit
- (b) Suspension or revocation of a previously approved outside employment permit may be included as a term or condition of sustained discipline
- (c) If, at any time during the term of a valid outside employment permit, an employee's conduct or outside employment conflicts with the provisions of Department policy, the permit may be suspended or revoked
- (d) When an employee is unable to perform at a full- duty capacity due to an injury or other condition, any previously approved outside employment permit may be subject to similar restrictions as those applicable to the employee's full-time duties until the employee has returned to a full duty status.

### 741.3 PROHIBITED OUTSIDE EMPLOYMENT

Consistent with the provisions of Government Code section 1126, the Department expressly reserves the right to deny any Outside Employment Application submitted by an employee seeking to engage in any activity which:

- (a) Involves the employee's use of Departmental time, facilities, equipment or supplies, or the use of the Department badge, uniform, prestige or influence for private gain or advantage;
- (b) Involves the employee's receipt or acceptance of any money or other consideration from anyone other than this Department for the performance of an act which the employee, if not performing such act, would be required or expected to render in the regular course or hours of employment or as a part of the employee's duties as an employee of this Department;
- (c) Involves the performance of an act in other than the employee's capacity as an employee of this Department that may later be subject directly or indirectly to the control, inspection, review, audit or enforcement of any other employee of this Department; or,
- (d) Involves time demands that would render performance of the employee's duties for this Department less efficient.

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### *Outside Employment*

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#### 741.3.1 OUTSIDE SECURITY AND PEACE OFFICER EMPLOYMENT

Consistent with the provisions of Penal Code section 70, and because it would further create a potential conflict of interest, no employee of this Department may engage in any outside or secondary employment as a private security guard, private investigator or other similar private security position except as authorized by the Chief Probation Officer

Any private organization, entity or individual seeking special services for security or traffic control from members of this Department must submit a written request to the Chief Probation Officer in advance of the desired service. Such outside extra duty overtime assignments will be assigned, monitored and paid through the Department, pursuant to applicable MOU provisions.

- (a) The applicant/organization will be required to enter into an indemnification agreement prior to approval.
- (b) The applicant/organization will further be required to provide for the compensation and full benefits of all employees requested for such outside security services.
- (c) Should such a request be approved, any employee working outside overtime shall be subject to the following conditions:
  - 1. The officer(s) shall wear the Departmental uniform/identification.
  - 2. The officer(s) shall be subject to the rules and regulations of this Department.
  - 3. No officer may engage in such outside employment during or at the site of a strike, lockout, picket, or other physical demonstration of a labor dispute.
  - 4. Compensation for such approved outside security services shall be pursuant to normal overtime procedures.
  - 5. Outside security services shall not be subject to the collective bargaining process.
  - 6. No officer may engage in outside employment as a peace officer for any other public agency without prior written authorization of the Chief Probation Officer.

#### 741.3.2 OUTSIDE OVERTIME ARREST AND REPORTING PROCEDURE

Any employee making an arrest or taking other official police action while working in an approved outside overtime assignment shall be required to complete all related reports in a timely manner pursuant to Department policy.

#### 741.3.3 SPECIAL RESTRICTIONS

Employees of this Department shall not engage in any of the following types of outside employment or activity:

- (a) Any employment or activity or in any location that might bring discredit to the Department, place the Department in a derogatory position, reduce the effectiveness of the employee in his or her position within the Department, or place the employee of the Department in a "Conflict of Interest" situation.
- (b) Any employment or activity requiring membership, affiliation or allegiance to any cause or course of conduct that is inconsistent with the objectives of the Department, or

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would cause the employee not to discharge his or her proper duties, or would take away his or her loyalty to the Department, or cause the employee to perform against public interests.

- (c) Any employment or activity where the manufacture, transportation or sale of alcoholic beverages or marijuana is the principal business.
- (d) Any employment or activity in a card room or other legalized gambling establishment.
- (e) Any employment or activity as an investigator where the employee may avail him or herself to the access of criminal records, policy information, files or correspondence.
- (f) Any employment or activity where the employee is acting as a bill collector, private detective or investigator, private security officer, or bouncer.
- (g) Serving of any "civil process" (e.g., summons, subpoenas, orders, etc.).

### 741.3.4 LIMITATION ON HOURS

No employee shall work at an outside job or activity in excess of four (4) hours per day during regular work days and twelve (12) hours per day during regular days off. The total number of hours permitted during each pay period shall not exceed forty-eight (48). The preceding shall apply to the current schedule of work.

### **741.4 DEPARTMENT RESOURCES**

Employees are prohibited from using any Department equipment or resources in the course of or for the benefit of any outside employment. This shall include the prohibition of access to official records or databases of this Department or other agencies through the use of the employee's position with this Department.

#### 741.4.1 REVIEW OF FINANCIAL RECORDS

The Yolo County Probation Department may request the financial records of an employee if the records tend to indicate a conflict with regular duties.

### **741.5 CHANGES IN OUTSIDE EMPLOYMENT STATUS**

If an employee terminates his or her outside employment during the period of a valid permit, the employee promptly shall submit written notification of such termination to the Chief Probation Officer through proper channels. Any subsequent request for renewal or continued outside employment must thereafter be processed and approved through normal procedures set forth in this policy.

Employees also shall promptly submit in writing to the Chief Probation Officer any material changes in outside employment including any change in the number of hours, type of duties, or demands of any approved outside employment. Employees who are uncertain whether a change in outside employment is material are advised to report the change.

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### **741.6 OUTSIDE EMPLOYMENT WHILE ON DISABILITY**

Department employees engaged in outside employment who are placed on disability leave or modified/light-duty shall inform their immediate Supervisor in writing within five (5) days whether or not they intend to continue to engage in such outside employment while on such leave or light-duty status. The immediate Supervisor shall review the duties of the outside employment along with any related doctor's orders, and make a recommendation to the Chief Probation Officer whether such outside employment should continue.

In the event the Chief Probation Officer determines that the outside employment should be discontinued or if the employee fails to promptly notify his or her Supervisor of his/her intentions regarding the work permit, a notice of revocation of the employee's permit will be forwarded to the involved employee, and a copy attached to the original work permit.

Criteria for revoking the outside employment permit include, but are not limited to, the following:

- (a) The outside employment is medically detrimental to the total recovery of the disabled employee, as indicated by the County's professional medical advisors.
- (b) The outside employment performed requires the same or similar physical ability, as would be required of an on-duty employee.
- (c) The employee's failure to make timely notice of his or her intentions to his or her Supervisor.

When the disabled employee returns to full duty with the Department, a written request may be made to the Chief Probation Officer to restore the permit.

### **741.7 DUTY AS A DEPARTMENT EMPLOYEE**

In all cases of outside employment or activity, the primary duty, obligation, and responsibility of the employee is to the Yolo County Probation Department.

## Reference Checks Policy

### **742.1 PURPOSE AND SCOPE**

This policy outlines the Yolo County Probation Department's obligations and the discretion of Supervisors and Management when responding to an outside agency request for reference checks. In addition, the policy provides guidance to peers of the employee subject to reference checks.

### **742.2 REQUESTS FOR VERIFICATION OF EMPLOYMENT**

Reference checks or inquiries are generally in the form of a written questionnaire to be completed by the recipient, and are used in determining an employee's suitability for employment by an outside agency.

Requests for standard verification of employment related to the employee's position title, salary and dates of employment should be forwarded to the Departmental Human Resources Coordinator. Should the reference check requestor want additional information other than standard employment verification, the Departmental Human Resources Coordinator shall refer the requestor to the Yolo County Human Resources Department.

### **742.3 REFERENCE CHECK PROCEDURES APPLICABLE TO ALL SUPERVISORS AND MANAGERS**

Supervisors and Managers who receive a request for a reference check shall refer the requestor to the Departmental Human Resources Coordinator. Supervisors and Managers will not provide any information to the reference check requestor regarding the employee's performance.

### **742.4 REFERENCE CHECK PROCEDURES APPLICABLE TO AN EMPLOYEE'S PEERS**

Peers who receive a request for a reference check shall refer the matter to their Supervisor for a Departmental response. Peers shall not respond to a reference check in any official capacity as an employee of the Yolo County Probation Department.

### **742.5 REQUESTS FOR REVIEW OF THE PERSONNEL FILES**

All requests by an outside agency to review all or part of an employee's personnel file must be forwarded to the Departmental Human Resources Coordinator for response.

### **742.6 DOCUMENT RETENTION AND REFERENCES**

Copies of the release forms or the replies will not be included in the employee's personnel file.

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## Threats/Potential Danger to Employees and Others

### 744.1 PURPOSE AND SCOPE

Employees shall utilize reasonable methods to minimize, reduce, or avoid danger to themselves and others. They are encouraged to seek assistance from other employees or outside agencies as appropriate. Employees are to plan and apply reasonable care and caution in all potentially dangerous situations, and use good judgment in balancing the requirements of job performance and safety issues.

### 744.2 THREATS TO THE EMPLOYEE

An employee shall notify his or her immediate Supervisor if, as a result of employment with the Department, the employee is assaulted, attacked or threatened, or any member of the employee's family is assaulted, attacked or threatened. The employee will seek medical attention if needed and document the incident.

Should such an incident occur, every effort shall be made to prevent further or prolonged attack or injury. Serious threats and assaults shall be reported to law enforcement. The employee shall cooperate with the Department to develop a long-range plan to minimize/eliminate the danger.

### 744.3 THREATS TO OTHERS

When any employee in the course of his or her duties becomes aware of a serious threat against the life, safety, or property of another person, that employee shall immediately report the information to his or her direct Supervisor or designee. The threat will be documented and saved in an incident report.

When any employee becomes aware of such a threat, any potential victim shall be given immediate and adequate notice of the impending danger.

## Personal Appearance Standards

### 745.1 PURPOSE AND SCOPE

Employees of the Yolo County Probation Department, regardless of their function or assignment, represent the professional standard and image of this Department to the public and to other agencies.

All Probation Department employees should be aware of the need to present a neat, well-groomed, and professional image to the public, Criminal Justice Partners, other County Departments, and the Courts. Our professional image should reflect Probation staff as positive role models to clients, the public, and other agencies.

### 745.2 GENERAL GUIDELINES

The following guidelines are provided to assist employees in maintaining a professional appearance while performing the various duties that employees of this Department may be assigned.

#### 745.2.1 APPROPRIATE ATTIRE

##### **OFFICE ATTIRE:**

During working/duty hours all sworn non-field personnel (not including JDF staff) and non-sworn personnel shall wear clothing conforming to a "business professional" atmosphere. Business professional attire includes, but is not limited to the following attire:

- non-denim pants or trousers
- slacks
- sport coat and tie
- long and short sleeve button down shirts
- Department-issued polo shirts
- dresses
- skirts
- blouses
- sweaters
- pant suits
- dress gaucho pants
- dress capri pants and pant suits
- dress shoes (which includes open toe shoes)

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### *Personal Appearance Standards*

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Probation officers, Supervising probation officers and Managers shall wear attire that quickly transitions to court attire for unanticipated court appearances or other professional meetings (e.g., Board of Supervisors meetings, or professional meetings with personnel from other agencies); and maintain an appropriate change of clothes.

Due to the fact that non-sworn civilian support personnel do not have the same physically demanding job duties or assignments involving direct client contact as sworn personnel and staff in the Probation Aide classification, non-sworn civilian support personnel may wear "dress sandals" while in the office. This allowance assumes that employees electing to wear "dress sandals" shall maintain a business professional appearance at all times. This allowance will be subject to review and approval of the Chief Probation Officer, or his or her Designee.

#### **FIELD ATTIRE:**

Probation officers, Supervising probation officers, and non-sworn probation aides assigned a field supervision caseload or having direct client contact shall wear attire appropriate to their assignment. Such attire includes, but is not limited to the following items:

- blue, black, brown or tan non-denim pants
- utility or cargo pants
- Department-issued polo shirts
- other Departmentally approved tactical field attire

Appropriate footwear includes:

- black, brown or tan boots/shoes
- solid black or brown athletic shoes

#### **FRONT DESK/RECEPTION PERSONNEL:**

Personnel assigned to the front desk/reception at the Probation Department, Juvenile Detention Facility, or Alternative Sentencing/Work Program/Transportation for more than four (4) hours per day shall wear a Department-issued polo shirt. The Department shall provide each employee in this assignment with three (3) polo shirts for the first fiscal year, and two (2) polo shirts each subsequent fiscal year, until such assignment ends (or as provided by the operative MOU).

#### **745.2.2 ATTIRE APPROPRIATE FOR COURT APPEARANCES, CONFERENCE ATTENDANCE, BOARD OF SUPERVISORS MEETINGS OR OTHER PROFESSIONAL MEETINGS**

Court appearances require Probation employees to wear appropriate business attire, including but not limited to: slacks, dress shoes, sport coat and tie, dress shirts, dresses, skirts, blouses, professional pant suits, dress gaucho pants, and dress shoes (including open toe shoes).

\*Note: Skirts shall not be shorter than two (2) inches above the knee.

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#### 745.2.3 JUVENILE DETENTION FACILITY

Employees assigned to work at juvenile detention facilities are required to wear uniforms with identification apparel, as issued or authorized by their particular institution during duty hours at the facility or while engaged in official Department business.

Unacceptable attire for institutional staff is specifically detailed in the Yolo County Detention Facility "Dress Guidelines" as outlined in Article 3, Section 1324g, Procedure D, and is incorporated into this policy by reference. It is the responsibility of the immediate Supervisor or Manager to monitor his or her employees to ensure that appearance specified in policy, procedures, directives, and guidelines outlined in Article 3, Section 1324g,, Procedure D is followed.

All Detention Officers assigned to the Alternative Sentencing Program/Transportation Unit, unless specifically exempted by the Department, shall own and maintain in good order, a complete set of regulation uniforms. Officers assigned to this unit shall wear their uniforms while on duty.

#### 745.2.4 CASUAL DAYS

Fridays are designated as "casual days" for all Department employees except institutional staff members, who must dress in uniform or designated attire for safety and security reasons, and Department employees who must appear in court. If employees participate in a "casual Friday", they will be expected to maintain a neat appearance.

#### 745.2.5 TRAINING DAYS

Training days are considered on-duty hours. Office, field, or institutional attire may be worn and must be appropriate to the training site. Casual attire may be worn if appropriate to the training.

Questions concerning appropriate training attire may be directed to your immediate Supervisor.

#### 745.2.6 INAPPROPRIATE ATTIRE

Inappropriate attire is considered to be that which detracts from a business professional work environment. Examples include, but are not limited to the following:

- revealing clothing
- too tight clothing (as defined below)
- shorts (unless approved for ASP staff)
- extremely short shirts
- sandals
- flip-flops
- shirts with slogans that can be reasonably construed as obscene, suggestive, vulgar or demeaning
- shirts that advertise alcohol, tobacco, or drugs
- shirts that display political statements

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### *Personal Appearance Standards*

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- sweat pants (except during Use of Force/Management of Assaultive Behavior/Force Options Training or other types of physically demanding training)
- clothes that are ragged, torn, soiled or worn out

Employee attire shall not be clothing that is so tight-fitting to the body that it creates a safety issue, detracts from a professional appearance, and/or distracts co-workers, other professionals or clients. This also includes inappropriately short skirts and/or dresses, and deep necklines on blouses or tops.

For all personnel, blue denim jeans are only considered as appropriate attire on casual days (Fridays) or training days, when appropriate to the training site, and for employees in institutional assignments..

Note: The decision as to what constitutes inappropriate attire rests with the Chief Probation Officer or designee.

#### 745.2.7 EXCEPTIONS TO THIS POLICY

The Chief Probation Officer, his/her designee, or any Manager may exempt an employee temporarily from the minimum dress standard while performing a specific short-term task, for specific medical reasons, or for training. Management will make all reasonable efforts to accommodate written requests from non-uniformed personnel for a personal exemption from this policy due to religious, disability, or medical needs. Health and safety requirements will be considered in evaluating such requests.

#### 745.2.8 NON-COMPLIANCE

Any employee not in compliance with the provisions of this policy may be directed to change into appropriate attire and may be subject to disciplinary action. If an employee is sent home to change their attire, the time away from the work site shall be charged to available leave balance(s); or, in the event of exhausted leave(s), the employee shall be allowed to "flex" the time away from the work site. Note: flex time shall not exceed four (4) hours. This section shall be enforced by the Supervisor directly responsible for the involved employee, unless the direct Supervisor is unavailable. In such situations, this section may be enforced by any Supervisor or Manager within the Department.

In the event this section is enforced the Supervisor shall first consult with County Department of Human Resources.

### **745.3 TATTOOS**

While on-duty, and while wearing Department logo clothing or while representing the Department in any official capacity, employees shall make every reasonable effort to conceal visible tattoos or other body art. This shall be accomplished by wearing long sleeve shirts, sweaters, jackets, or approved tattoo sleeve covers\* to conceal exposed tattoos on the forearms, wrists, or other exposed skin. Department staff are allowed to have existing tattoos exposed while at FOT/UOF/

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MAB training. However, at no time while on-duty or while representing the Department in any official capacity, shall any offensive tattoo or body art be visible.

\*Examples of approved tattoo sleeve covers include, but are not limited to the following: Tatjacket tattoo cover-up sleeves, Elixir Arm Cooler Cooling Sleeves (black or tan), etc.

### **745.4 BODY PIERCINGS**

While on duty, while wearing Department logo clothing, or while representing the Department in any official capacity, employees shall not attach to or through the skin or any part of the face, mouth or tongue any visible objects, articles, jewelry or ornamentation of any kind, except earrings. Any non-conforming piercing shall be removed, and may be covered, or replaced with a clear, plastic spacer. If an employee has a question about how this policy applies to him or her, the matter should be discussed with the employee's immediate Supervisor for consideration and determination.

#### **745.4.1 WEARING OF DEPARTMENT UNIFORM/IDENTIFICATION APPAREL OFF-DUTY**

No employee of this Department shall appear publicly in uniform in an "off-duty" status unless an emergency exists or he or she has specific prior approval from a Supervisor and/or Manager.

Personnel who elect to wear their uniform/identification apparel (official Departmental logo) to and from work shall attempt to wear an outer garment at all times, which conforms to the following:

- (a) The outer garment shall cover any distinguishable parts of the uniform/identification apparel that identifies the wearer as an employee of this Department.
- (b) The outer garment shall not be a portion of the uniform/identification apparel.
- (c) The outer garment shall not bear any insignias particular to this Department.

However, to preclude public criticism, personnel electing to wear their uniform/identification apparel to and from work should use discretion and good judgment in making prolonged or excessive stops at public establishments. This also applies to breaks and lunches.

The Chief Probation Officer or his or her designee may grant permission to personnel to wear Department-issued uniforms, polo shirts, etc., to funeral services honoring a law enforcement officer who has fallen in the line of duty. Such permission shall be given in writing.

No employee of this Department shall authorize or permit any other person to wear his or her uniform/identification apparel at any time or for any purpose whatsoever.

## Nepotism and Conflicting Relationships

### 750.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure equal opportunity and effective employment practices by avoiding actual or perceived favoritism, discrimination or actual or potential conflicts of interest by or between members of the Yolo County Probation Department. These employment practices include: recruiting, testing, hiring, compensation, assignment, use of facilities, access to training opportunities, supervision, performance appraisal, discipline and workplace safety and security.

#### 750.1.1 DEFINITIONS

**Business relationship** - Serving in an outside business, company, partnership, corporation, venture or other transaction as an employee, independent contractor, compensated consultant, owner, board member, shareholder, or investor, where the Department employee's annual interest, compensation, investment or obligation is greater than \$250.

**Conflict of interest** - Any actual, perceived or potential conflict of interest in which it reasonably appears a Department employee's action, inaction or decisions are or may be influenced by the employee's personal or business relationship.

**Nepotism** - The practice of showing favoritism to relatives over others in appointment, employment, promotion or advancement by any public official in a position to influence these personnel decisions.

**Personal relationship** - Includes marriage, cohabitation, dating or any other intimate relationship beyond mere friendship.

**Public official** - A Supervisor, officer or employee vested with authority by law, rule or regulation or to whom such authority has been delegated.

**Relative** - An employee's family member by virtue of blood, marriage, adoption or cohabitation. This includes, but is not limited to, an employee's parent, stepparent, spouse, domestic partner, significant other, child, step-child, grandchild, sibling, step-sibling, grandparent, step-grandparent, parent-in-law, brother-in-law, sister-in-law, legal guardian, and any other persons who are living as a member of and in the same household as the employee, and/or *in loco* parentis relationship.

**Subordinate** - An employee who is subject to the temporary or ongoing direct or indirect authority of a Supervisor.

**Supervisor** - An employee who has temporary or ongoing direct or indirect authority over the actions, decisions, evaluation and/or performance of a subordinate employee.

### 750.2 RESTRICTED DUTIES AND ASSIGNMENTS

The Department will not prohibit all personal or business relationships between employees. However, in order to avoid nepotism or other inappropriate conflicts, the following reasonable restrictions shall apply:

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- (a) Employees are prohibited from directly supervising, occupying a position in the line of supervision or being directly supervised by any other employee who is a relative or with whom they are involved in a personal or business relationship.
  - 1. If circumstances require that such a Supervisor/subordinate relationship exist temporarily, the Supervisor shall make every reasonable effort to defer matters pertaining to the involved employee to an uninvolved Supervisor.
  - 2. When personnel and circumstances permit, the Department will attempt to make every reasonable effort to avoid placing employees in such Supervisor/subordinate situations. The Department, however, reserves the right to transfer or reassign any employee to another position within the same classification in order to avoid conflicts with any provision of this policy.
- (b) Employees are prohibited from participating in, contributing to or recommending promotions, assignments, performance evaluations, transfers or other personnel decisions affecting an employee who is a relative or with whom they are involved in a personal or business relationship.
- (c) Whenever possible, Departmental trainers will not be assigned to train relatives. Departmental trainers are prohibited from entering into or maintaining personal or business relationships with any employee they are assigned to train until such time as the training has been successfully completed and the employee is off probation.
- (d) In order to avoid actual or perceived conflicts of interest, employees of this Department shall refrain from developing or maintaining personal or financial relationships with victims, witnesses or other individuals during the course of or as a direct result of any official contact.
- (e) Except as required in the performance of official duties or, in the case of relatives, employees shall not develop or maintain personal or financial relationships with any individual they know or reasonably should know is under criminal investigation, is a convicted felon, parolee, probationer, juvenile offender, known gang member, fugitive or registered sex offender or who engages in serious violations of state or federal laws.

#### 750.2.1 EMPLOYEE RESPONSIBILITY

Before entering into any personal or business relationship or other circumstance which the employee knows or reasonably should know could create a conflict of interest or other violation of this policy, the employee shall promptly notify his or her uninvolved, next highest level Supervisor.

Whenever any employee is placed in circumstances that would require the employee to take enforcement action or provide official information or services to any relative or individual with whom the employee is involved in a personal or business relationship, the employee shall notify promptly his or her uninvolved, next level Supervisor. In the event that no uninvolved Supervisor is immediately available, the employee shall have another uninvolved employee either relieve the involved employee or remain present to witness the action.

#### 750.2.2 SUPERVISOR'S RESPONSIBILITY

Upon being notified of, or otherwise becoming aware of any circumstance that could result in or constitute an actual or potential violation of this policy, a Supervisor shall take promptly all

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reasonable steps to mitigate or avoid such violations whenever possible. Supervisors shall notify the Chief Probation Officer promptly of such actual or potential violations through the chain of command.

## Temporary Modified-Duty Assignments

### 754.1 PURPOSE AND SCOPE

This policy establishes procedures for providing temporary modified-duty assignments. This policy is not intended to affect the rights or benefits of employees under federal or state law, County rules, or current memorandums of understanding. Nothing in this policy affects the obligation of the Department to engage in a good-faith, interactive process to consider reasonable accommodation for any employee with a qualifying temporary or permanent disability.

### 754.2 POLICY

Subject to operational considerations, the Yolo County Probation Department may identify temporary modified-duty assignments for employees who have an injury or medical condition resulting in temporary work limitations or restrictions. A temporary assignment allows the employee to work, while providing the Department with a productive employee during the temporary period. Under no circumstances shall the temporary modified-duty assignment become permanent.

### 754.3 GENERAL CONSIDERATIONS

Priority consideration for temporary modified-duty assignments will be given to employees with temporary injuries or illnesses that are work-related.

No position in the Yolo County Probation Department shall be created or maintained as a temporary modified-duty assignment, except as required under the Americans with Disabilities Act (ADA) or the California Fair Employment and Housing Act. (Gov Code §§ 12940, et. seq.)

Temporary modified-duty assignments are a management prerogative and not an employee right. The availability of temporary modified-duty assignments will be determined on a case-by-case basis, consistent with the operational needs of the Department. Temporary modified-duty assignments are subject to continuous reassessment, with consideration given to operational needs and the employee's ability to perform in a modified-duty assignment.

The Chief Probation Officer or the authorized designee may restrict employees working in temporary modified-duty assignments from wearing a uniform, displaying a badge, carrying a firearm, operating an emergency vehicle, engaging in outside employment, or being otherwise limited in employing their peace officer powers, consistent with the employee's mental or physical condition and any limitations imposed by a treating provider.

The duration of a temporary modified-duty assignment shall be determined on a case-by case basis, but shall generally not exceed a cumulative total of 1040 hours in any one-year period (See County of Yolo Administrative Policies and Procedures Workplace Security and Safety Policy) .

### 754.4 PROCEDURE

Employees may request a temporary modified-duty assignment for short-term injuries or illnesses.

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Employees seeking a temporary modified-duty assignment should submit a written request to Management or their authorized designee. The request should, as applicable, include a certification from the treating provider containing:

- (a) An assessment of the severity and probable duration of the illness or injury.
- (b) The prognosis for recovery.
- (c) The nature and scope of limitations and/or work restrictions.
- (d) A statement regarding any required workplace accommodations, mobility aids or medical devices.
- (e) A statement that the employee can safely perform the duties of the temporary modified-duty assignment.

Management will make a recommendation to the Chief Probation Officer regarding temporary modified-duty assignments that may be available based on the needs of the Department and the limitations of the employee. The Chief Probation Officer or the authorized designee shall confer with the Department of Human Resources or the County Counsel as appropriate.

Requests for a temporary modified-duty assignment of 20 hours or less per week may be approved by the Chief Probation Officer.

#### 754.4.1 MODIFIED-DUTY SCHEDULES

The schedules of employees assigned to modified duty may be adjusted to suit medical appointments or Department needs at the discretion of Management.

The employee and his or her Supervisor should be informed in writing of the schedule, assignment and limitations and restrictions as determined by the employee's health care provider.

#### 754.4.2 ACCOUNTABILITY

The employee's Supervisor shall coordinate efforts to ensure proper time accountability and shall complete and process a change of shift/assignment form.

- (a) Employees on modified duty are responsible for coordinating required doctor visits and physical therapy appointments in advance with their Supervisor for any duty time taken. Doctor visits and appointments for treatment of injuries or illnesses that are not work related or not covered under ADA or FEHA, shall be arranged during off-duty time or otherwise charged to the employee's sick leave.
- (b) Employees shall submit a status report for each visit to their treating health care provider and shall immediately notify their Supervisor of any change in restrictions or limitations as determined by their health care provider. An employee assigned to a modified-duty assignment shall provide a duty status report to their Supervisor no less than once every 30 days while the employee is on modified duty.
- (c) Supervisors shall keep Management or their designee apprised of the employee's status and ability to perform the modified-duty assignment. Modified-duty assignments that extend beyond 60 days will require a written status report and a request for an extension to Management or their designee with an update of the employee's current

## *Temporary Modified-Duty Assignments*

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status and anticipated date of return to regular duty. Extensions require approval of the Chief Probation Officer.

- (d) When it is determined that an employee on modified duty will return to regular duty, the Supervisor shall notify Management or their designee and complete and process a change of shift/assignment form. All training and certification necessary for return to duty shall be reviewed and updated as necessary.

### **754.5 MEDICAL EXAMINATIONS**

Prior to returning to full-duty status, employees shall be required to provide certification from their treating medical professionals stating that they are medically cleared to perform the essential functions of their jobs without restrictions or limitations.

The Department may require a fitness-for-duty examination prior to returning an employee to full-duty status, in accordance with the Fitness for Duty Policy.

### **754.6 PREGNANCY**

If an employee is temporarily unable to perform regular duties due to a pregnancy, childbirth or a related medical condition, the employee will be treated the same as any other temporarily disabled employee (42 USC § 2000e(k)). A pregnant employee shall not be transferred involuntarily to a temporary modified-duty assignment.

#### **754.6.1 NOTIFICATION**

Pregnant employees should notify their immediate Supervisor as soon as practicable and provide a statement from their medical providers identifying any pregnancy-related job restrictions or limitations. If at any point during the pregnancy it becomes necessary for the employee to take a leave of absence, such leave shall be granted in accordance with the County's personnel rules and regulations regarding family and medical care leave.

### **754.7 PROBATIONARY EMPLOYEES**

Probationary employees who are assigned to a temporary modified-duty assignment shall have their probation extended by a period of time equal to their assignment to temporary modified duty.

### **754.8 MAINTENANCE OF CERTIFICATION AND TRAINING**

Employees assigned to temporary modified duty shall maintain all certification, training and qualifications appropriate to both their regular and temporary duties, provided that the certification, training or qualifications are not in conflict with any medical limitations or restrictions. Employees who are assigned to temporary modified duty shall inform their Supervisor of any inability to maintain any certification, training or qualifications.

# Employee Speech, Expression and Social Networking

## 759.1 PURPOSE AND SCOPE

This policy is intended to address issues associated with employee use of social networking sites and to provide guidelines for the regulation and balancing of employee speech and expression with the needs of the Yolo County Probation Department.

Nothing in this policy is intended to prohibit or infringe upon any communication, speech or expression that is protected or privileged under law. This includes speech and expression protected under state or federal constitutions as well as labor or other applicable laws.

Employees are encouraged to consult with their Supervisor regarding any questions arising from the application or potential application of this policy.

### 759.1.1 APPLICABILITY

This policy applies to all forms of communication including but not limited to film, video, print media, public or private speech, use of all internet services, including the World Wide Web, e-mail, file transfer, remote computer access, news services, social networking, social media, instant messaging, blogs, forums, video, and other file-sharing sites.

## 759.2 POLICY

Public employees occupy a trusted position in the community, and thus, their statements have the potential to contravene the policies and performance of this Department. Due to the nature of the work and influence associated with the law enforcement profession, it is necessary that employees of this Department be subject to certain reasonable limitations on their speech and expression. To achieve its mission and efficiently provide service to the public, the Yolo County Probation Department will carefully balance the individual employee's rights against the Department's needs and interests when exercising a reasonable degree of control over its employees' speech and expression.

## 759.3 SAFETY

Employees should consider carefully the implications of their speech or any other form of expression when using the Internet. Speech and expression that may negatively affect the safety of the Yolo County Probation Department employees, such as posting personal information in a public forum, can result in compromising an employee's home address or family ties. Employees should therefore not disseminate or post any information on any forum or medium that could reasonably be anticipated to compromise the safety of any employee, an employee's family, or associates. Examples of the type of information that could reasonably be expected to compromise safety include:

- Disclosing a photograph and name or address of an officers who is working undercover.

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- Disclosing the address of a fellow officer.
- Otherwise disclosing where another officer can be located off-duty.

#### **759.4 PROHIBITED SPEECH, EXPRESSION AND CONDUCT**

To meet the Department's safety, performance and public-trust needs, the following speech or expression made by an employee is prohibited:

- (a) Speech or expression that, while not made pursuant to an official duty, is significantly linked to, or related to, the Department and tends to compromise or damage the mission, function, reputation or professionalism of the Department and/or its employees.
- (b) Speech or expression that could reasonably be foreseen as having a negative impact on the credibility of the employee as a witness. For example, posting statements or expressions to a website that glorify or endorse dishonesty, discrimination or illegal behavior.
- (c) Speech or expression of any form that could reasonably be foreseen as having a negative impact on the safety of the employees of the Department. For example, a statement on a blog that provides specific details as to how and when prisoner transportations are made could reasonably be foreseen as potentially jeopardizing employees by informing criminals of details that could facilitate an escape or attempted escape.
- (d) Speech or expression that is contrary to the canons of the Law Enforcement Code of Ethics as adopted by this Department.
- (e) Use or disclosure, through whatever means, of any information, photograph, video or other recording obtained or accessed as a result of employment with the Department for financial or personal gain, or any disclosure of such materials without the express authorization of the Chief Probation Officer or his or her designee.
- (f) Posting, transmitting or disseminating any photographs, video or audio recordings, likenesses or images of department logos, emblems, uniforms, badges, patches, marked and/or unmarked Department vehicles, equipment or other material that specifically identifies this Department on any personal or social networking or other website or web page, without the express authorization of the Chief Probation Officer or his or her designee.

Employees must take reasonable and prompt action to remove any content, including content posted by others, that is in violation of this policy from any web page or website maintained by the employee (e.g., social or personal website).

#### **759.4.1 UNAUTHORIZED ENDORSEMENTS AND ADVERTISEMENTS**

While employees are not restricted from engaging in the following activities as private citizens or as authorized members of a recognized bargaining unit or officer associations, employees may

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not represent the Yolo County Probation Department or identify themselves in any way that could be reasonably perceived as representing the Yolo County Probation Department i to do any of the following, unless specifically authorized by the Chief Probation Officer (Gov. Code §§ 3206; 3302):

- (a) Endorse, support, oppose or contradict any political campaign or initiative
- (b) Endorse, support, oppose or contradict any social issue, cause or religion
- (c) Endorse, support or oppose any product, service, company or other commercial entity
- (d) Appear in any commercial, social or nonprofit publication or any motion picture, film, video, public broadcast or on any website

Additionally, when it can reasonably be construed that an employee, acting in his/her individual capacity or through an outside group or organization (e.g., bargaining group or officer associations), is affiliated with this Department, the employee shall give a specific disclaiming statement that any such speech or expression is not representative of the Yolo County Probation Department.

Employees retain their right to vote as they choose, to support candidates of their choice and to express their opinions as private citizens, including as authorized members of a recognized bargaining unit or officer associations, on political subjects and candidates at all times while off-duty.

However, employees may not use their official authority or influence to interfere with or affect the result of an election or a nomination for office. Employees are also prohibited from directly or indirectly using their official authority to coerce, command or advise another employee to pay, lend or contribute anything of value to a party, committee, organization, agency or person for political purposes. (5 USC § 1502.)

#### **759.5 PRIVACY EXPECTATION**

Employees forfeit any expectation of privacy with regard to e-mails, texts or anything published or maintained through file-sharing software or any Internet site (e.g., Facebook, My-space) that is accessed, transmitted, received or reviewed on any Department technology system (e.g. desktop, laptop, smart phone, tablet, etc.).

The Department reserves the right to access, audit and disclose for whatever reason any message, including attachments, and any information accessed, transmitted, received or reviewed over any technology that is issued or maintained by the Department. This includes the County e-mail system and intranet, Department e-mail system, computer network or any information placed into storage on any Department system or device.

All messages, pictures and attachments transmitted, accessed or received over Department networks are considered Department records and, therefore, are the property of the Department. The Department reserves the right to access, audit and disclose for whatever reason all messages, including attachments, that have been transmitted, accessed or received through any Department system or device, or any such information placed into any Department storage area or device. This includes records of all key strokes or web-browsing history made at any Department computer

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or over any Department network. The fact that access to a database, service or website requires a user name or password will not create an expectation of privacy if it is accessed through a Department computer or network.

## Anti-Retaliation

### 760.1 POLICY

The Yolo County Probation Department has a zero tolerance for retaliation and is committed to taking reasonable steps to protect from retaliation, employees who, in good faith, engage in permitted behavior or who report or participate in the reporting or investigation of workplace complaints. The Yolo County Probation Department adheres to the Yolo County policy regarding Anti-Retaliation.

(See the County of Yolo policy titled "Whistleblower Protection" located in the section of the Administrative Policies and Procedures Manual on the Yolo web page.)