

**County of Marin**

**MARIN COUNTY PROBATION DEPARTMENT  
MANUAL**

CHIEF PROBATION OFFICER  
MARLON J. WASHINGTON

REVISED DATE: August 10, 2022

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## **MARIN COUNTY PROBATION DEPARTMENT MANUAL**

### **I. MISSION STATEMENT**

The mission of the Marin County Probation Department is to further justice and community safety; to hold offenders accountable while promoting their rehabilitation; to reduce the impact of crime and conflict on victims and the community; and to employ best practices in providing balanced, effective services as directed by the Court and in collaboration with other agencies and the community.

These values and principles represent a shared vision of our department and how we serve the public.

### **II. CORE VALUES**

- Personal and professional integrity.
- Respect for each person's individuality, experience and contributions.
- Commitment to empowerment through communication, collaboration and cooperation.
- Individual and organizational competence, development, fairness and accountability.

### **III. OPERATING PRINCIPLES**

- We are committed to protecting the community through the use of evidence-based practices, emphasizing rehabilitation, offender accountability and community justice.
- We are committed to supporting the dignity and respect of every individual.
- We believe people can change and we can be instrumental in directing that change.
- We are committed to restorative processes that seek to mitigate the impact of crime on victims and the community.
- We are committed to functioning as a cooperative team, both internally and in conjunction with other departments, agencies, our partners and stakeholders.
- We are committed to ongoing communication, throughout the organization and with our clients, partners and stakeholders.
- We are committed to ongoing learning, personal and professional development, and making use of our individual and collective learned experiences.
- We are committed to providing a safe, supportive and respectful working environment.
- We are committed to promoting personal productivity, health, and balance as supported by the Department's Mission.
- We are committed to the ongoing evaluation and improvement of our programs, practices and interactions.



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### **IV. POLICY STATEMENT ON DIVERSITY**

The Probation Department values differences and will strive to be responsive to cultural, ethnic, and linguistic diversity at all levels of our organization. We will promote skills, practices, and interactions that ensure culturally responsive services. We will train staff, and we will conduct self-assessments of our organization. We will be open to community input. We will implement goals and objectives to ensure policy, procedures, skill, and practices are responsive to the diversity of the population we serve.



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## V. Administrative

### A. Policy Statement on Procedure and the Law

**Effective Date:** 01/02/2007      **Approved By:** Michael Daly  
**Prepared By:** Michael Daly  
**Review Date:** 01/30/2015  
**Review Date:** 05/14/2018

1. The Probation Department is an arm of the Court. The Chief Probation Officer is legally mandated to provide selected services and has the authority to provide other services to the Court and to the community. These services may be delegated to staff in the agency. These services are to be provided in a lawful and professional manner. Staff are responsible for keeping current on department policies and procedures as well as changes in the law.
2. Should any employee become aware of a conflict between the law, policy manuals or procedures, the employee shall notify their direct supervisor of the apparent conflict. The supervisor will take the appropriate action to handle the situation as soon as possible.
3. If an employee is directed by the Court to perform in a manner that does not appear to be consistent with the department policy or procedure; the employee will attempt to make the Court aware of the problem. If an immediate response 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.
4. All employees are expected to provide accurate, balanced, complete, and appropriate information to the Court, other employees and to other agencies as appropriate.
5. Any employee who intentionally provides inaccurate, misleading or untruthful information to, or intentionally withholds significant information from the Court or the administrators or supervisors of the department is subject to disciplinary action.
6. *References* [1203 PC](#)



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**B. Departmental Policy and Procedures**

**Effective Date: 01/02/2007**

**Approved By: Michael Daly**

**Prepared By: Michael Daly**

**Review Date: 05/14/2018**

**Reviewed By: Mariano Zamudio**

1. Policy and procedure manuals, state laws and other relevant county documents to which all employees must adhere can only provide a general guideline to the routine, anticipated repeated situations that occur in the course of a job function, and therefore, have limitations. These resources will not address all situations. Employees must exercise sound professional judgment and seek supervisory input when necessary.
2. The primary responsibility of the Chief Probation Officer as an officer of the Court is the protection of the community through the provision of legally mandated services to the Courts and the utilization of rehabilitative services for the clients under adult or juvenile supervision.
3. Fulfilling the role of probation requires a blend of peace officer duties and casework skills.
4. The Probation Department is committed to implementing and utilizing Evidence Based Practices for effective case management.
5. Personal, political and/or religious beliefs shall be kept separate from the employee's department role. In any case in which there is a potential or apparent conflict, the employee shall advise the immediate supervisor so appropriate action can be taken.
6. *References* [PMR 20.1](#)





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**C. Policy Statement on Scope and Authority of Probation Officers**

**Effective Date:** 01/02/2007    **Approved:** Michael Daly  
**Review Date:** 01/30/2015  
**Prepared By:** Michael Daly  
**Review Date:** 05/14/2018  
**Reviewed By:** Mariano Zamudio

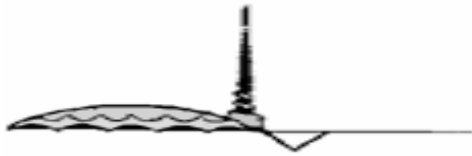
In accordance with our Mission Statement, it is the role of the Probation Department to serve the Courts, the community, and those offenders placed under its jurisdiction by statute and by court order. Deputy Probation Officers and Juvenile Correction Officers are classified as peace officers per Section 830.5 PC. Pursuant to Section (a), the authority of the Probation Officer shall extend to:

1. The conditions of probation, mandatory supervision, or post release community supervision of any person within the State of California on Probation.
2. The escape of any inmate or ward from a state or local institution.
3. The transportation of such persons.
4. Violations of any penal provisions of the law which are discovered in the course of and arising in connection with his/her employment.
5. To the rendering of mutual aid to any other law enforcement agency.

**Powers of Arrest**

All Probation Officers and Juvenile Correction Officers have the authority to arrest under PC 830.5. The Marin County Probation Department authorizes probation officers to arrest for violations of probation and pursuant to PC 836. No arrests shall take place unless the peace officer has successfully completed PC 832.

The Deputy Probation Officer must utilize discretion in view of all immediate circumstances when affecting an arrest. The most prudent course of action may be to immediately report the information to law enforcement.



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**D. Policy Statement on SB54**

**Effective Date: 08/08/2018    Approved: Mariano Zamudio**  
**Prepared By: Kevin Lynch**

The Marin County Probation Department is a public safety organization serving the Marin County Superior Court and the community. The Probation Department is an entity sworn to uphold all state and federal laws. California legislation, particularly AB899 and SB54, preclude interaction with officials from federal agencies under certain circumstances.

For matters involving youth under the jurisdiction of the Juvenile Court, all requests from a federal agency, including but not limited to immigration agencies, for information on juveniles, will be accessed solely through a court order from the Marin County Superior Court, per 827 of the Welfare and Institutions Code. For Adult Probation matters, all civil inquiries for non-public information will be denied. If a federal agency requests information regarding an active criminal investigation, the Probation Department will cooperate as a public safety agency.



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**V. Administrative**

**E. Policy on L.E. gangs**

**Effective Date:** 04/21/22  
**Prepared By:** Terry Wright

**Approved:** Marlon Washington

**BACKGROUND**

On September 30, 2021, Governor Newsom signed Assembly Bill 958, creating Penal Code section 13670 addressing law enforcement gangs. Penal Code section 13670(a)(2)(b) requires all law enforcement agencies to maintain a policy prohibiting participation in a law enforcement gang and making a violation of that policy grounds for termination.

**DEFINITIONS:**

"Law enforcement gang" is defined by Penal Code section 13670(a) as a "group of peace officers within a law enforcement agency who may identify themselves by a name and may be associated with an identifying symbol, including, but not limited to, matching tattoos, and who engage in a pattern of on-duty behavior that intentionally violates the law or fundamental principles of professional policing, including, but not limited to, excluding, harassing, or discriminating against any individual based on a protected category under federal or state antidiscrimination laws, engaging in or promoting conduct that violates the rights of other employees or members of the public, violating agency policy, the persistent practice of unlawful detention or use of excessive force in circumstances where it is known to be unjustified, falsifying police reports, fabricating or destroying evidence, targeting persons for enforcement based solely on protected characteristics of those persons, theft, unauthorized use of alcohol or drugs on duty, unlawful or unauthorized protection of other members from disciplinary actions, and retaliation against other officers who threaten or interfere with the activities of the group."

**POLICY**

Marin County Probation Department staff are prohibited from participating in a law enforcement gang. Staff who participate in a law enforcement gang will be subject to discipline, up to and including termination.

Marin County Probation staff who are aware of or suspect that another member of the Marin County Probation staff is involved in a law enforcement gang must report such knowledge or suspicion to their supervisor, manager or higher position in the chain of command.



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VI. Records

**A. Policy Statement on Case Confidentiality-Criminal Records and Probation Files**

Effective Date: 01/02/2007      Approved: Michael Daly  
Prepared By: Michael Daly  
Review Date: 01/30/2015  
Amended Date: 05/14/2018      Amended By: Mariano Zamudio

1. Criminal record information and probation case information in general is confidential and may only be released to those agencies/persons that have a need and right to know. Access to such information is strictly limited to statute, case law, court directive, and department policies. The unauthorized release of such information is strictly prohibited, and all release requests not covered specifically in this manual section should be screened with an immediate supervisor.
2. As defined in Section 11075 of the Penal Code, Criminal Offender Record Information includes records and data compiled by criminal justice agencies for purposes of identifying criminal offenders and maintaining a summary of arrest, pre-trial proceedings, the nature and disposition of criminal charges, sentencing, incarceration, rehabilitation, and release. Such information shall be restricted to that which is recorded as the result of an arrest, detention, or other initiation of criminal proceedings or any consequent criminal proceedings.  
*References:* [11075 PC](#)
3. Criminal Offender Record Information shall be disseminated, whether directly or through an intermediary, only to agencies that are authorized by statute to receive such records. *References:* [11076 PC](#)
4. The Attorney General is responsible for the security of Criminal Offender Record Information and, as such, is required to:
  - i. Establish regulations to assure the security of Criminal Offender Record Information.
  - ii. Establish regulations to assure the lawful dissemination of Criminal Offender Record Information.
  - iii. Coordinate the dissemination of Criminal Offender Record Information with other states.
  - iv. Establish a training program for the proper use and control of Criminal Offender Record Information.



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5. As defined in Section 11105 of the Penal Code, State Summary Criminal History Information is the master record of information compiled by the Attorney General pertaining to the identification and criminal history of any person including name, date of birth, physical description, fingerprints, dates of arrests, arresting agencies and booking number, charges, disposition, and similar data about such person. Such information is available through the California Law Enforcement Telecommunications System (CLETS) and is commonly called the CII "Rap Sheet." *Reference* 11105 PC

#### I. Access to Criminal History Information

- a. The Attorney General through the Department of Justice shall furnish State Summary Criminal History Information to any agency statutorily permitted to receive such information when it is needed in the course of carrying out the duties of that agency. Probation Officers of the State of California are one of the entities permitted to receive State Summary Criminal History Information via CLETS located at several workstations within the Adult Division offices, Juvenile Services, and Juvenile Hall. All inquiries via CLETS must be based on the need to know and the right to know. It is strictly forbidden to utilize the CLETS for any reason other than a work-related criminal investigation. Employment background checks must be submitted to the Department of Justice via the postal service with fingerprint cards. *Reference*: 11105.2 PC.
- b. All employees and contractors with the Marin County Probation Department who may come in contact with criminal history information are required to complete the online Department of Justice (DOJ) training and comply with all rules in accordance to the guidelines set forth by the DOJ.
- c. Federal Bureau of Investigation Criminal Records and National Crime Information Center (NCIC) Records are restricted in the same manner as CII records outlined herein.
- d. The Department of Motor Vehicles Driver History, while accessible via CLETS, is not part of the State Summary Criminal History Information. However, unauthorized inquiry or use of such information outside the scope of work-related criminal investigation is prohibited.

#### II. Release of Criminal History Information

- a. Juvenile Probation reports and records are not available absent a court order notwithstanding 827 of the Welfare and Institutions Code.
- b. In accordance with Sections 11107 and 11105 of the Penal Code, the Attorney General has compiled a list of all agencies that have the right to receive State Summary Criminal History Information. This list also limits the release of information derived from our Probation files to secondary sources.



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- c. As a general guideline, all information in our Probation files derived from State Summary Criminal 13300 PC History Information, whether a direct copy of A CII “rap sheet,” or a narrative interpretation of such information, is considered to be restricted under this statute and may be released in accordance with the Attorney General’s Authorized Agency List and contingent on the receiving agency’s need to know. In all such releases, the criteria of both the need to know and the right to know must be met; otherwise the release is unlawful. All such releases must be documented by a chrono note in PRISM by the person releasing such information. *Reference:* 11105.2 PC
- d. If a probationer or former probationer requests a copy of his/her Criminal Record, or requests that the Department release the Criminal Record to a specific person or entity, the probationer will be referred to the Marin County Sheriff’s Department to follow their procedure for obtaining a copy of that information.
- e. All records of the Juvenile Court, including those contained in juvenile probation files, are subject to the provisions of the Welfare and Institutions Code.

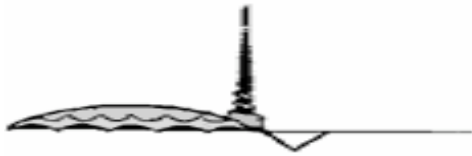
### III. Unlawful Furnishing of Criminal History Information

It is a violation of the law, punishable as a misdemeanor for:

- a. Justice Department employee to knowingly furnish a State Summary Criminal History Information Record to a person not authorized by law to receive it.
- b. Person authorized to receive such a record to knowingly furnish such record to a person not authorized to receive it.
- c. Local Criminal Justice employee to knowingly furnish Criminal History Information from a probation file to a person not authorized to receive it. *References:* 11141 PC, 11142 PC, 13302 PC, 11105 PC

### IV. Release of Information to Crime Victims

- a. Crime victims have a constitutional right to be included in the court process as their case is being adjudicated. Probation Officers have statutory obligations in criminal 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.
- b. Given the general rights of crime victims, there is an inherent right to certain information relating to the offense and its adjudication. The crime victim may be furnished with dispositional information regarding a case if it has an impact on restitution or any potential danger that they may face. See Victims’ Bill of Rights “Marsy’s Rights”, California Constitution, Article I, Section 28(b) [Victims’ Bill of Rights | State of California - Department of Justice - Office of the Attorney General](#)



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#### **V. Release of Information During Field Investigative Contacts**

During the course of supervising a probationer, especially while making field contacts, the probation officer may interact with friends, neighbors, or employers of the probationer. During such incidental contact, it may be necessary for the probation officer to identify oneself, leading by implication to the conclusion that the subject of the inquiry is a probationer. Such incidental revelation is permissible, and it should be handled with discretion. The mere fact that an individual is subjected to probation jurisdiction is not protected in the same manner as criminal record information. The key element for field officers is to properly identify themselves and the scope of their duties in making the field contact. In this context, the release of information would be limited to the establishment of probation jurisdiction and not for a specific release of criminal record information.

#### **VI. Release of Information During Phone Calls**

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



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**VI. Records**

**B. Policy Statement on Release of Current / Past Employment**

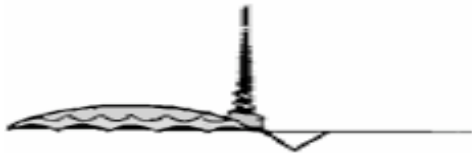
**Effective Date:** 01/02/2007    **Approved:** Michael Daly  
**Prepared By:** Michael Daly  
**Reviewed:** 01/30/2015  
**Amended Date:** 05/14/2018  
**Amended by:** Marino Zamudio

It is the policy of the Marin County Probation Department to forward all inquiries of current and past employment to Human Resources at (415)473-6104. This policy will apply to all staff sworn or otherwise.

Reference Checks for Peace Officers: Background checks of peace officers will be conducted in compliance with Government Code Section 1031.1.

*References [PMR 46.5](#) and [California Government Code Section 1031.1 - California Attorney Resources - California Laws](#)*





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**C. Policy Statement on Citizen's Complaints**

**Effective Date:** 01/02/2007      **Approved:** Michael Daly  
**Prepared By:** Michael Daly  
**Reviewed:** 01/30/2015  
**Reviewed:** 05/14/2018  
**Reviewed By:** Mariano Zamudio

Section 832.5 of the Penal Code specifies that each Department or Agency in this State shall establish a procedure to investigate citizens' complaints against the personnel of such departments and shall make a written description of the procedure available to the public.

A proper relationship of trust and confidence between members of the Probation Department and the community they serve are essential to effective law enforcement.

Probation personnel must be free to exercise their best judgment and to initiate action in a reasonable, lawful and impartial manner without fear of reprisal. Concomitantly, they must meticulously observe the rights of all persons.

The Probation Department acknowledges its responsibility to provide a system of complaint and disciplinary procedures, which not only will subject Probation Department personnel to corrective action if they conduct themselves improperly, but also will protect them from unwarranted criticism when they discharge their duties properly.

The Probation Department shall openly accept, diligently investigate and judiciously resolve community concerns of misconduct that achieve the following:

- a. Thorough and accurate investigations,
- b. Fair and impartial investigation,
- c. Just and expeditious disposition of all complaints of misconduct
- d. Strict and confidential control of complaints, investigations and dispositions, and
- e. Protection of all rights guaranteed to all parties to complaints of misconduct.

Just and expeditious disposition of complaint(s) of misconduct require the most effective utilization of investigative resources. To that end, the Marin County Probation Department shall commit the most appropriate and warranted resources in an effort to achieve this standard and maintain the Probation Department's values.



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The Marin County Probation Department will complete Citizen Complaint Investigation within 90 days from the date of the complaint, absent extraordinary circumstances.

The complainant will receive written notification from the investigation supervisor if the investigation takes more than 90 days. Citizen complaint investigations regarding complaints made by employees of the County of Marin will be completed within the time frame set forth in Government code § 3300 et seq. Citizen complaint investigation is a priority function of the Probation Department.

Information of any form pertaining to any citizen complaint investigation or special investigation anticipated in-progress or concluded, shall not be disclosed by any employee of the Marin County Probation Department to any other person, except as permitted by statute or in strict compliance with the official investigation.

#### **PROCEDURE**

All Marin County Probation Department personnel shall accept all citizen concerns and complaints made by any person against any employee of the Probation Department. Complaints shall be accepted from any person, by any method, in person or anonymously. They shall be expeditiously routed to the Chief Deputy Probation Officer.

#### **EMPLOYEE DUTIES**

INVESTIGATOR: An Investigator conducts a complete investigation in a fair and impartial manner in accordance with the statute and in compliance with this Policy. An Investigator maintains strict confidential control of all investigative information, evidence and materials. The investigator shall receive and review Citizen Complaints or Special Investigation materials that are assigned for investigation. The investigator will familiarize him/herself with the details of the investigation and conduct the investigation and investigative interviews that accomplish the following:

- Protection of the rights of the accused employee pursuant to Government Code 3300-3313
- Protection of the rights of all parties to and of the complaint or special investigation
- Complete the investigation within 90 days or specified time authorized by competent authority
- Complete the investigation report and submit the written report in an approved form format



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- Administer investigative admonishments utilizing the approved standardized admonishment

INVESTIGATOR'S SUPERVISOR: The immediate ranking person above the investigator who is responsible for the supervision of the investigation. He/she will evaluate the charges, facts, and evidence and will prepare a written memorandum recommending the appropriate finding. The memorandum and the investigation report shall be routed to the Chief Deputy Probation Officer.

CHIEF DEPUTY PROBATION OFFICER: Shall be responsible for receiving and reviewing all Citizen Complaint investigations to determine the appropriate handling as a citizen concern versus Citizen Complaint. He/she shall, either in person or by mail, provide the complainant with a copy of their original complaint form. He/she shall assign the investigation to the appropriate investigator with a specified due date in compliance with this policy. He/she will maintain the administrative investigation file(s) in order to monitor and track the proper and timely completion of the investigations.

He/she will maintain the administrative guidance and direction to the investigator as needed. He/she may recommend a Referred Investigation or Summary Investigation as appropriate and make a recommendation in written memorandum form to the Investigator. He/she will review and approve the completed investigative report and submit the completed investigation to the Chief Probation Officer with recommendations if warranted. If the investigation is deficient, he/she will return it to the Investigator for the required action. For the purposes of Citizen Complaint Investigations and Special Investigations, the Chief Deputy Probation Officer shall function as Custodian of Records.

However, an employee has an affirmative duty to contact his/her immediate supervisor with information that he/she believes is relevant to a Citizen's Complaint or Special Investigation. The Supervisor receiving the information shall immediately notify the Investigation Officer, who in turn, shall provide the investigator with the information and the name of the person(s) providing it.

### DEFINITIONS

COMPLAINT: - An allegation of misconduct made against an employee of the Marin County Probation Department.

CITIZEN'S COMPLAINT: - A complaint of misconduct made by any person, including employees of the Marin County.



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SPECIAL INVESTIGATION: - A complaint of misconduct brought to the attention of the Chief by an employee.

MISCONDUCT: - An employee of the Marin County Probation Department whose act or omission constitutes a violation of:

- Constitutional Rights
- Statute
- Oath of Office
- Probation Policies
- PMR's

CITIZEN CONCERN: - Citizens will often make a complaint against Probation personnel that are withdrawn by the complainant or resolved merely as an issue of concern.

CITIZEN COMPLAINT of SPECIAL INVESTIGATION: - An official inquiry into the facts and circumstances of allegations of employee misconduct to determine whether or not misconduct occurred.

REFERRED INVESTIGATION: - A complaint more appropriately investigated and resolved through other procedures and/or processes.

SUMMARY INVESTIGATION: - An inquiry and written record consisting solely of review of the complaint and interview of the accused employee when the complainant in the preceding five-year period had filed at least two (2) complaints that have been determined to be *unfounded, exonerated or frivolous*.

INVESTIGATION REPORT: - A written record of the investigative facts and finding FINDINGS:

- Sustained - the investigation disclosed sufficient evidence to clearly prove the allegation of misconduct.
- Not sustained - the investigation failed to disclose sufficient evidence to clearly prove or disprove the allegation of misconduct.
- Unfounded - the investigation clearly established that the allegation is not true (832.5(c)(2) PC)
- Exonerated - the investigation clearly established that the actions of the employee that formed the basis for the complaint are not violation of law or department policy.
- Frivolous - the complaint is wholly without merit and for the sole purpose of harassing Probation Office personnel.



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- Referred Disposition (R/D) – the complaint was appropriately investigated and resolved through other procedures and/or processes. (Example: complaint addressed through inmate grievance procedure.)

DISPOSITION OF FINDINGS: - The action taken intended to correct and/or discipline misconduct.

CORRECTIVE ACTION: - The following action that can be taken to correct misconduct:

- Counseling (may be documented)
- Oral Reprimand (may be documented)
- Training (may be documented)

(In accordance with current case law, any documentation of counseling, oral reprimand or training that is provided as the result of a sustained Citizen Complaint or Special Investigation shall not state or infer said counseling, oral reprimand or training was imposed as a form of discipline, either implicit or implied.)

DISCIPLINARY ACTION: - The following action that can be taken to discipline and correct misconduct:

- Written Reprimand
- Transfer or reassignment
- Voluntarily surrender of accrued vacation time in lieu of other action
- Voluntarily surrender of accrued compensatory time in lieu of other action
- Suspension
- Reduction in pay grade
- Demotion
- Termination

DIRECTORS: Shall be responsible for receiving and reviewing Citizen Complaint Investigations and Special Investigations ensuring proper compliance with policies, procedures and statutes. The Director will provide executive supervision to the Supervisor as necessary and will refer the completed investigation to the Chief Deputy of the subject employee for corrective or disciplinary recommendations. The Director may authorize a Summary Investigation consisting of review of the complaint and interview of the accused employee under the following circumstance:

- If the complainant, in the preceding five-year period, has filed at least two (2) complaints that have been determined to be unfounded, exonerated or frivolous.
- If the investigation report is deficient, he/she will return it to the Supervisor for the required action.



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SUPERVISORS: Shall be responsible for receiving and reviewing completed Citizen Complaint Investigations and Special Investigations affecting his/her subordinate personnel. The Supervisor will evaluate the charges, facts and evidence and will, when appropriate, prepare a written recommendation for appropriate corrective or disciplinary action. The memorandum and the investigation report shall be routed directly to the Chief Deputy Probation Officer

CHIEF DEPUTY: The Chief Deputy will thoroughly review the investigation report assuring that the content, format, procedures and corrective or disciplinary disposition recommendations are in compliance with this policy. If approved, in the case of a “sustained finding,” in which counseling, training, oral reprimand or written reprimand is approved as the appropriate sanction, the recommending Investigator will be directed to carry out the imposition of corrective action.

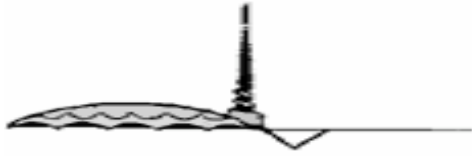
In the case of a “sustained finding” in which disciplinary action is other than counseling, training, oral reprimand or written reprimand is approved as the appropriate sanction, a “Notice of Intent to Discipline” will be issued by the Chief Deputy. The “Notice of Intent to Discipline” shall include the charges alleged, the factual basis for sustaining the allegations and the specific discipline being recommended to the Chief. The “Notice of Intent to Discipline” shall also outline the employee’s right to meet with the Chief in order to present and discuss his/her assessment of the events that led to the recommended discipline.

Employees will generally have 10 (ten) business days from the date of the official receipt of the “Notice of Intent to Discipline” to request a meeting with the Chief.

If the recommendation to the Chief Deputy is not approved, the Chief Deputy will return the recommendation to the Investigator for modification as appropriate.

#### DISPOSITION AND DISTRIBUTION OF CITIZEN COMPLAINTS, SPECIAL INVESTIGATIONS AND CITIZEN CONCERNS

CITIZEN CONCERNS: Citizens can make a complaint against Probation personnel that is withdrawn by the complainant. It is incumbent upon every employee receiving a citizen concern to exercise their best conflict resolution skills in handling public complaints. Public dissatisfaction with Probation Department services or personnel



### MARIN COUNTY PROBATION DEPARTMENT MANUAL

conduct may not warrant a Citizen Complaint Investigation if the complaint is resolved to the satisfaction of the complainant and there is evidence of misconduct by subject employee. A citizen may withdraw his/her complaint at any time prior to or during a formal citizen complaint investigation. In all cases where an employee receives a Citizen Complaint that is withdrawn and reduced to a Citizen Concern he/she shall do one of the following:

- Receive the completed Citizen Complaint Form as usual and boldly indicate on the face that it is submitted as a CITIZEN CONCERN ONLY," or
- In the case of an identified act of misconduct by the subject employee, initiate a special Investigation.

#### CITIZEN COMPLAINTS, CITIZEN CONCERNS and SPECIAL INVESTIGATION REPORTS:

All official reports and documents arising from complaints shall be distributed and retained by the Chief Deputy Probation Officer.

Citizen Concerns shall be maintained by the Chief of Administrative Services for a period of time not to exceed one (1) year. In all cases, the citizen concern shall not become a part of an employee's personnel file. Citizen Complaints resulting in findings will result in the following actions:

- The complainant will receive a letter stating that there was a violation of policy procedure or statute and that corrective action was taken, or that there was not a violation of policy procedure of statute.
- In the case of a lawsuit or a personnel hearing, only the Chief, Chief Deputy, or the Court may direct copies of the file to the County Counsel or other pertinent party.

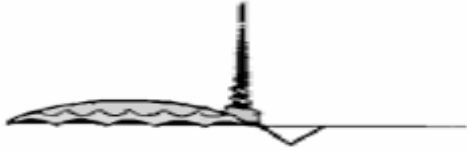
Special Investigations resulting in "sustained findings will result in the following actions:

- The complainant will receive a letter stating that there was a violation of policy, procedure or statute and that corrective action was taken or that there was no a violation of policy procedure or statute.
- In the case of a lawsuit or a personnel hearing, only the Chief, Chief Deputy or the Court may direct copies of the file to the County Counsel or other pertinent party.

RELATED STANDARDS:

[P.C. 832.5](#)

[Government Code Section 3300-3313](#)



**MARIN COUNTY PROBATION DEPARTMENT MANUAL**

**VII. Personnel**

**A. Policy Statement on Employees as Department Representatives**

***Effective Date:*** 01/02/2007

***Review Date:*** 01/30/2015

***Reviewed Date:*** 05/14/2018

***Approved:*** Michael Daly

***Prepared By:*** Michael Daly

***Reviewed By:*** Mariano Zamudio

All employees of the Marin Probation Department are considered representatives of the Department in relationship to everyone with whom they have contact during the course of their employment and while appearing in public as a Departmental employee. In that capacity, employees will represent and express the established policies and Mission of the Department.

Department identification consists of a picture identification card and a badge for all sworn staff. Non-sworn staff will have a picture identification card. All staff should be prepared to provide the Department identification to other agencies or to the public in carrying out official duties. Probation staff shall establish official capacity by producing Department issued identification when seeking information.

Department identification, or peace officer status, never should be used to obtain information or services for personal reasons to which we would not be entitled as a private citizen. Probation Officers shall always be conscientious of their need to know/right to know obligation (See Records Policy in Section V of this Manual). A badge shall be displayed only in the course of carrying out official duties.

When acting as a private citizen with a person or agency which knows that you are a Probation Officer or Department employee, staff should volunteer at the outset that you are not in official status.





**MARIN COUNTY PROBATION DEPARTMENT MANUAL**

**VII. Personnel**

**B. Policy Statement on Probation Student Interns/Volunteers**

<i>Effective Date:</i>	<b>6/1/2009</b>	<i>Approved:</i>	<b>Michael Daly</b>
<i>Review Date:</i>	<b>01/30/2015</b>	<i>Prepared By:</i>	<b>Michael Daly</b>
<i>Amended Date:</i>	<b>05/14/2018</b>	<i>Amended by:</i>	<b>Mariano Zamudio</b>

The Probation Department is committed to providing opportunities of internship to college students interested in criminal justice careers.

**PROCEDURES**

Student interns are volunteers and must apply through the Marin County Volunteer Office. Student interns are not financially subsidized by the Department or the County. Student interns shall be appropriately supervised by Department staff.

All student interns shall be Live Scanned fingerprinted, for the purpose of completing a background check, which must be completed prior to beginning their internship.



**MARIN COUNTY PROBATION DEPARTMENT MANUAL**

**VIII. Personnel**

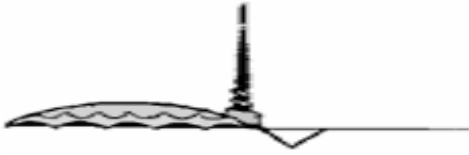
**C. Policy Statement on Employee Conduct**

<b><i>Effective Date:</i></b>	<b>01/02/2007</b>	<b><i>Approved:</i></b>	<b><i>Michael Daly</i></b>
<b><i>Prepared By:</i></b>	<b>Michael Daly</b>		
<b><i>Review Date:</i></b>	<b>01/30/2015</b>	<b><i>Reviewed by:</i></b>	<b><i>Michael Daly</i></b>
<b><i>Reviewed Date:</i></b>	<b>05/14/2018</b>	<b><i>Reviewed By:</i></b>	<b><i>Mariano Zamudio</i></b>

- a. Employees shall conduct themselves (on and off duty) in such a manner as to reflect favorably on the Department. Conduct unbecoming of an employee shall include that which brings the Department into disrepute (disgrace) or reflects discredit upon the employee as a member of the Department, or that which impairs the reasonable operation, efficiency, morale, or discipline of the Department.
- b. Any employee of the Probation Department, who violated or attempts to violate any federal statute, law of any state or local jurisdiction; or any employee who fails to obey and fully execute any lawful order, written or oral, given by a superior which shall include, but not be necessarily limited to these rules and regulations, all general or special orders, policies and procedures of the Department shall be deemed insubordinate and is subject to appropriate disciplinary action which may include termination from employment.
- c. The term "lawful orders" shall be construed as any order in keeping with the performance of any duty prescribed by law.
- d. An employee who is arrested or charged or knowingly under investigation for the alleged commission of a misdemeanor or a felony, shall report same to his/her immediate supervisor within 72 hours of the alleged offense. The supervisor shall pass the information on through appropriate administrative channels to the Chief Deputy Probation Officer.
- e. Any employee who has an immediate family member or person residing in their home arrested in Marin County for a felony or misdemeanor shall report this information to the Chief Deputy as soon as possible.

**I. On/Off-Duty Conduct**

- a. Peace Officers shall maintain a level of conduct in their personal and business affairs which is in keeping with the highest standards of the profession.
- b. Peace Officers shall not engage in any conduct, which would impair their ability to perform as peace officers or cause the Department or Court to be brought into disrepute.



## County of Marin

### MARIN COUNTY PROBATION DEPARTMENT MANUAL

- c. All department employees, while off-duty, shall refrain from consuming intoxicating beverages to the extent that it results in potential illegal behavior or behavior which discredits them or the Department, or renders the employee unfit to report for his/her next duty shift.
- d. Department employees shall not engage in conduct on or off duty, which adversely affects the morale or efficiency of the Department, or destroys, damages or undermines public respect for the employee, the Department and/or the Court.

#### II. Prohibited Associations

- a. Department employees shall not knowingly have regular or continuous personal relationships with persons currently on Marin County probation, Marin County sheriff's parole, with detainees or inmates of correctional institutions sentenced from Marin County or any known criminal gangs.
  - i. This policy does not apply where contact is unavoidable because of personal family relationships with the employee or where the Department may require such contact with such persons for official duties.
  - ii. If an employee has established an acquaintance or relationship with an individual or with a member of the individual's family before the individual becomes a client of the Probation Department, the employee shall notify their immediate supervisor as soon as they learn of the individual's client status. The immediate supervisor will review the situation with the affected employee and attempt to establish an acceptable solution to any potential conflict.
- b. Employees shall not knowingly trade, barter, lend or otherwise engage in any other personal transactions with any probationer, parolee, and inmate of a correctional institution being actively supervised or sentenced from Marin County.
- c. Employees shall not, directly or indirectly, give to or receive from any Marin County probationer, or family member thereof, anything in the nature of a gratuity, gift or promise of a gift.
- d. Employees shall not take or send, either to or from any detainee or inmate of a correctional institution sentenced from Marin County any verbal or written message or any item, except as part of the employee's official duties. All such correspondence shall be on Department letterhead and utilize a Department address.
- e. Employees shall not visit detainees or inmates of correctional institutions sentenced from Marin County except when conducted as part of their official duties.
- f. Employees shall not manage, hold for safekeeping, sell or attempt to sell, any real or personal property of any Marin County probationer, parolee, detainee, or inmate of a correctional institution when not required by state law, county ordinance, or Court Order..



## MARIN COUNTY PROBATION DEPARTMENT MANUAL

### VII. Personnel

#### D. Policy Statement on Employee Dress Policy

**Effective Date:** 01/02/2007

**Review Date:** 01/30/2015

**Amended Date:** 05/14/2018

**Approved:** Michael Daly

**Prepared By:** Michael Daly

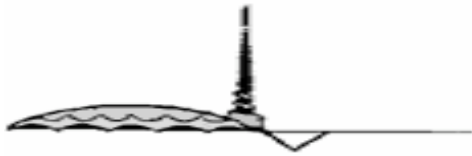
**Amended by:** Mariano Zamudio

#### **General Policy**

It is the policy of the Probation Department that all employees are required to dress in a professional and appropriate manner.

While various duties and functions in the Department may require some degree of flexibility in the standards of dress, the primary concern is the appropriateness of the clothing to the job function. There is an assumption that as employees of the Department and as Officers of the Court, sound judgment will prevail and that the clothing worn will reflect our role in the Criminal Justice System.

- a. Court Attire - Court attire requires wearing appropriate business attire: slacks, coat, tie and dress shoes for men; dress, suit, blouse and slacks and jacket, or blouse and skirt and jacket, and dress shoes for women. All Probation Officers MUST have the appropriate court attire available at all times in case a Court appearance is required. Under unusual circumstances, where there is not enough time to change into court attire, field officers may appear in court in their Department provided uniform.
- b. Field/Institution work - Comfortable yet professional clothing should be worn at all times. When doing field work or working in an Institution where the likelihood of physical activity is higher than in the office setting, staff should not wear any clothing or jewelry that may compromise their safety.



**MARIN COUNTY PROBATION DEPARTMENT MANUAL**

**VII. Personnel**

**E. Policy Statement on Promotions**

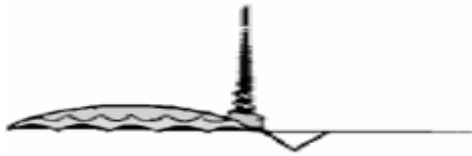
*Effective Date: 01/02/2007      Approved: Michael Daly*  
*Review Date: 01/30/2015      Prepared by: Michael Daly*  
*Amended Date: 6/30/2014      Amended by: Alisha Krupinsky*  
*Amended Date: 5/14/2018      Amended by: Mariano Zamudio*

**I. General Policy**

All employees of the Marin County Probation Department will be given an equal opportunity to apply for promotion to any position for which the minimum qualifications are met subject to the Department receiving the available names from Human Resources. Those who qualify for promotions will be evaluated on their performance, and promotions will be made with overall consideration of qualifications and suitability for the position. Considerations for promotions include but are not limited to the following:

- Leadership ability
- Professionalism
- Demonstrates high character
- Knowledge, skills and ability
- Overall performance as noted in evaluations
- Cross training/experience
- The specific position to which the promotion is being made
- Special skills and abilities that have been acquired by the applicant
- Time in position including experience in other departments.
- Time with the Marin County Probation Department

Promotions are made by the Chief Probation Officer, with consideration to all of the above. Upon selection for promotion, the employee will be contacted to verify acceptance of the position.



**MARIN COUNTY PROBATION DEPARTMENT MANUAL**

**VII. Personnel**

**F. Policy Statement on Exit Interviews**

*Effective Date: 01/02/2007*

*Approved: Michael Daly*

*Prepared By: Michael Daly*

*Review Date: 01/30/2015*

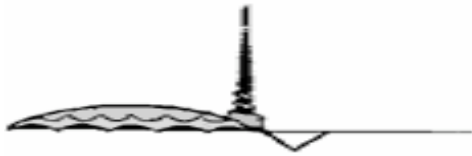
*Amended Date: 05/14/2018*

*Amended by: Mariano Zamudio*

**General Policy**

Marin County Probation Department strives to maintain a positive working environment and recognizes that employees who are separating from the Department can be a valuable source of information and can assist in creating and maintaining a positive work environment.

- a. The Human Resources Department will offer to conduct exit interviews for all employees who retire or resign from the Probation Department.
- b. Interviews are conducted to ascertain both negative and positive aspects of Department operations.



**MARIN COUNTY PROBATION DEPARTMENT MANUAL**

**VII. Personnel**

**G. Policy Statement on Peace Officers Bill of Rights**

*Effective Date: 01/02/2007*

*Review Date: 01/30/2015*

*Reviewed Date: 05/14/2018*

*Approved: Michael Daly*

*Prepared By: Michael Daly*

*Reviewed By: Mariano Zamudio*

**General Policy**

**CALIFORNIA CODES GOVERNMENT CODE SECTION 3300-3311**

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3300

This chapter is known and may be cited as the **Public Safety Officers Procedural Bill of Rights Act**. (Added by Stats. 1976, Ch. 465.)

3301.

For purposes of this chapter, the term public safety officer means all peace officers specified in Sections 830.1, 830.2, 830.3, 830.31, 830.32, 830.33, except subdivision (e), 830.34, 830.35, except subdivision (c), 830.36, 830.37, 830.38, 830.4, and 830.5 of the Penal Code. The Legislature hereby finds and declares that the rights and protections provided to peace officers under this chapter constitute a matter of statewide concern. The Legislature further finds and declares that effective law enforcement depends upon the maintenance of stable employer-employee relations, between public safety employees and their employers. In order to assure that stable relations are continued throughout the state and to further assure that effective services are provided to all people of the state, it is necessary that this chapter be applicable to all public safety officers, as defined in this section, wherever situated within the State of California. (Amended by Stats. 1990, Ch. 675, Sec. 1.)

3302.

(a) Except as otherwise provided by law, or whenever on duty or in uniform, no public safety officer shall be prohibited from engaging, or be coerced or required to engage, in political activity.

(b) No public safety officer shall be prohibited from seeking election to, or serving as a member of, the governing board of a school district. (Amended by Stats. 1978, Ch. 1173.)



### MARIN COUNTY PROBATION DEPARTMENT MANUAL

3303.

When any public safety officer is under investigation and subjected to interrogation by his or her commanding officer, or any other member of the employing public safety department, that could lead to punitive action, the interrogation shall be conducted under the following conditions. For the purpose of this chapter, punitive action means any action that may lead to dismissal, demotion, suspension, reduction in salary, written reprimand, or transfer for purposes of punishment.

(a) The interrogation shall be conducted at a reasonable hour, preferably at a time when the public safety officer is on duty, or during the normal waking hours for the public safety officer, unless the seriousness of the investigation requires otherwise. If the interrogation does occur during off-duty time of the public safety officer being interrogated, the public safety officer shall be compensated for any off-duty time in accordance with regular department procedures, and the public safety officer shall not be released from employment for any work missed.

(b) The public safety officer under investigation shall be informed prior to the interrogation of the rank, name, and command of the officer in charge of the interrogation, the interrogating officers, and all other persons to be present during the interrogation. All questions directed to the public safety officer under interrogation shall be asked by and through no more than two interrogators at one time.

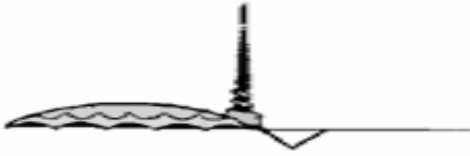
(c) The public safety officer under investigation shall be informed of the nature of the investigation prior to any interrogation.

(d) The interrogating session shall be for a reasonable period taking into consideration gravity and complexity of the issue being investigated. The person under interrogation shall be allowed to attend to his or her own personal physical necessities.

(e) The public safety officer under interrogation shall not be subjected to offensive language or threatened with punitive action, except that an officer refusing to respond to questions or submit to interrogations shall be informed that failure to answer questions directly related to the investigation or interrogation may result in punitive action. No promise of reward shall be made as an inducement to answering any question. The employer shall not cause the public safety officer under interrogation to be subjected to visits by the press or news media without his or her express consent nor shall his or her home address or photograph be given to the press or news media without his or her express consent.

(f) No statement made during interrogation by a public safety officer under duress, coercion, or threat of punitive action shall be admissible in any subsequent civil proceeding. This subdivision is subject to the following qualifications:





### MARIN COUNTY PROBATION DEPARTMENT MANUAL

(1) This subdivision shall not limit the use of statements made by a public safety officer when the employing public safety department is seeking civil sanctions against any public safety officer, including disciplinary action brought under Section 19572.

(2) This subdivision shall not prevent the admissibility of statements made by the public safety officer under interrogation in any civil action, including administrative actions, brought by that public safety officer, or that officer's exclusive representative, arising out of a disciplinary action.

(3) This subdivision shall not prevent statements made by a public safety officer under interrogation from being used to impeach the testimony of that officer after an in-camera review to determine whether the statements serve to impeach the testimony of the officer.

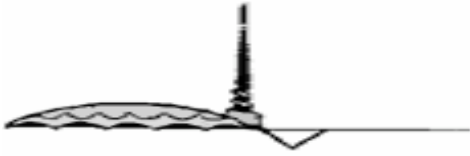
(4) This subdivision shall not otherwise prevent the admissibility of statements made by a public safety officer under interrogation if that officer subsequently is deceased.

(g) The complete interrogation of a public safety officer may be recorded. If a tape recording is made of the interrogation, the public safety officer shall have access to the tape if any further proceedings are contemplated or prior to any further interrogation at a subsequent time. The public safety officer shall be entitled to a transcribed copy of any notes made by a stenographer or to any reports or complaints made by investigators or other persons, except those which are deemed by the investigating agency to be confidential. No notes or reports that are deemed to be confidential may be entered in the officer's personnel file. The public safety officer being interrogated shall have the right to bring his or her own recording device and record any and all aspects of the interrogation.

(h) If prior to or during the interrogation of a public safety officer it is deemed that he or she may be charged with a criminal offense, he or she shall be immediately informed of his or her constitutional rights.

(i) Upon the filing of a formal written statement of charges, or whenever an interrogation focuses on matters that are likely to result in punitive action against any public safety officer, that officer, at his or her request, shall have the right to be represented by a representative of his or her choice who may be present at all times during the interrogation. The representative shall not be a person subject to the same investigation. The representative shall not be required to disclose, nor be subject to any punitive action for refusing to disclose, any information received from the officer under investigation for noncriminal matters.

This section shall not apply to any interrogation of a public safety officer in the normal course of duty, counseling, instruction, or informal verbal admonishment by, or other routine or unplanned contact with, a supervisor or any other public safety officer, nor shall this section apply to an investigation concerned solely and directly with alleged criminal activities.



**MARIN COUNTY PROBATION DEPARTMENT MANUAL**

(j) No public safety officer shall be loaned or temporarily reassigned to a location or duty assignment if a sworn member of his or her department would not normally be sent to that location or would not normally be given that duty assignment under similar circumstances. (Amended by Stats. 1994, Ch. 1259, Sec. 1. Effective January 1, 1995.)

3304.

(a) No public safety officer shall be subjected to punitive action, or denied promotion, or be threatened with any such treatment, because of the lawful exercise of the rights granted under this chapter, or the exercise of any rights under any existing administrative grievance procedure.

Nothing in this section shall preclude a head of an agency from ordering a public safety officer to cooperate with other agencies involved in criminal investigations. If an officer fails to comply with such an order, the agency may officially charge him or her with insubordination.

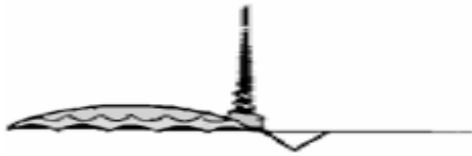
(b) No punitive action, nor denial of promotion on grounds other than merit, shall be undertaken by any public agency against any public safety officer who has successfully completed the probationary period that may be required by his or her employing agency without providing the public safety officer with an opportunity for administrative appeal.

(c) No chief of police may be removed by a public agency, or appointing authority, without providing the chief of police with written notice and the reason or reasons therefor and an opportunity for administrative appeal.

For purposes of this subdivision, the removal of a chief of police by a public agency or appointing authority, for the purpose of implementing the goals or policies, or both, of the public agency or appointing authority, for reasons including, but not limited to, incompatibility of management styles or as a result of a change in administration, shall be sufficient to constitute "reason or reasons."

Nothing in this subdivision shall be construed to create a property interest, where one does not exist by rule or law, in the job of Chief of Police.

(d) (1) Except as provided in this subdivision and subdivision (g), no punitive action, nor denial of promotion on grounds other than merit, shall be undertaken for any act, omission, or other allegation of misconduct if the investigation of the allegation is not completed within one year of the public agency's discovery by a person authorized to initiate an investigation of the allegation of an act, omission, or other misconduct. This one-year limitation period shall apply only if the act, omission, or other misconduct occurred on or after January 1, 1998. In the event that the public agency determines that discipline may be taken, it shall complete its investigation and notify the public safety officer of its proposed discipline by a Letter of Intent or Notice of Adverse Action articulating the discipline that year, except as provided in paragraph



### MARIN COUNTY PROBATION DEPARTMENT MANUAL

(2). The public agency shall not be required to impose the discipline within that one-year period.

(A) If the act, omission, or other allegation of misconduct is also the subject of a criminal investigation or criminal prosecution, the time during which the criminal investigation or criminal prosecution is pending shall toll the one-year time period.

(B) If the public safety officer waives the one-year time period in writing, the time period shall be tolled for the period of time specified in the written waiver.

(C) If the investigation is a multijurisdictional investigation that requires a reasonable extension for coordination of the involved agencies.

(D) If the investigation involves more than one employee and requires a reasonable extension.

(E) If the investigation involves an employee who is incapacitated or otherwise unavailable.

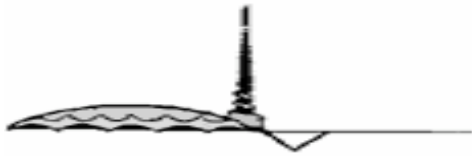
(F) If the investigation involves a matter in civil litigation where the public safety officer is named as a party defendant, the one-year time period shall be tolled while that civil action is pending.

(G) If the investigation involves a matter in criminal litigation where the complainant is a criminal defendant, the one-year time period shall be tolled during the period of that defendant's criminal investigation and prosecution.

(H) If the investigation involves an allegation of workers' compensation fraud on the part of the public safety officer.

(e) Where a predisciplinary response or grievance procedure is required or utilized, the time for this response or procedure shall not be governed or limited by this chapter.

(f) If, after investigation and any predisciplinary response or procedure, the public agency decides to impose discipline, the public agency shall notify the public safety officer in writing of its decision to impose discipline, including the date that the discipline will be imposed, within 30 days of its decision, except if the public safety officer is unavailable for discipline.



**MARIN COUNTY PROBATION DEPARTMENT MANUAL**

(g) Notwithstanding the one-year time period specified in subdivision (d), an investigation may be reopened against a public safety officer if both of the following circumstances exist:

(1) Significant new evidence has been discovered that is likely to affect the outcome of the investigation.

(2) One of the following conditions exist:

(A) The evidence could not reasonably have been discovered in the normal course of investigation without resorting to extraordinary measures by the agency.

(B) The evidence resulted from the public safety officer's predisciplinary response or procedure.

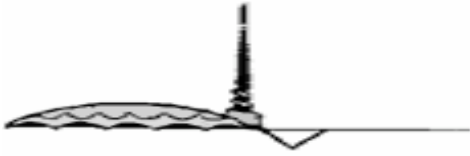
(h) For those members listed in subdivision (a) of Section 830.2 of the Penal Code, the 30-day time period provided for in subdivision (f) shall not commence with the service of a preliminary notice of adverse action, should the public agency elect to provide the public safety officer with such a notice. (Amended by Stats. 2009, Ch. 494, Sec. 1. (AB 955) Effective January 1, 2010.)

**3304.5.**

An administrative appeal instituted by a public safety officer under this chapter shall be conducted in conformance with rules and procedures adopted by the local public agency. (Added by Stats. 1998, Ch. 263, Sec. 1. Effective January 1, 1999.)

**3305.**

No public safety officer shall have any comment adverse to his interest entered in his personnel file, or any other file used for any personnel purposes by his employer, without the public safety officer having first read and signed the instrument containing the adverse comment indicating he is aware of such comment, except that such entry may be made if after reading such instrument the public safety officer refuses to sign it. Should a public safety officer refuse to sign, that fact shall be noted on that document, and signed or initialed by such officer. (Added by Stats. 1976, Ch. 465.)



### MARIN COUNTY PROBATION DEPARTMENT MANUAL

3305.5.

(a) A punitive action, or denial of promotion on grounds other than merit, shall not be undertaken by any public agency against any public safety officer solely because that officer's name has been placed on a Brady list, or that the officer's name may otherwise be subject to disclosure pursuant to *Brady v. Maryland* (1963) 373 U.S. 83.

(b) This section shall not prohibit a public agency from taking punitive action, denying promotion on grounds other than merit, or taking other personnel action against a public safety officer based on the underlying acts or omissions for which that officer's name was placed on a Brady list, or may otherwise be subject to disclosure pursuant to *Brady v. Maryland* (1963) 373 U.S. 83, if the actions taken by the public agency otherwise conform to this chapter and to the rules and procedures adopted by the local agency.

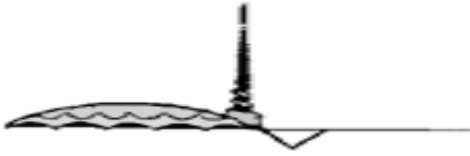
(c) Evidence that a public safety officer's name has been placed on a Brady list, or may otherwise be subject to disclosure pursuant to *Brady v. Maryland* (1963) 373 U.S. 83, shall not be introduced for any purpose in any administrative appeal of a punitive action, except as provided in subdivision (d).

(d) Evidence that a public safety officer's name was placed on a Brady list may only be introduced if, during the administrative appeal of a punitive action against an officer, the underlying act or omission for which that officer's name was placed on a Brady list is proven and the officer is found to be subject to some form of punitive action. If the hearing officer or other administrative appeal tribunal finds or determines that a public safety officer has committed the underlying acts or omissions that will result in a punitive action, denial of a promotion on grounds other than merit, or any other adverse personnel action, and evidence exists that a public safety officer's name has been placed on a Brady list, or may otherwise be subject to disclosure pursuant to *Brady v. Maryland* (1963) 373 U.S. 83, then the evidence shall be introduced for the sole purpose of determining the type or level of punitive action to be imposed.

(e) For purposes of this section, "Brady list" means any system, index, list, or other record containing the names of peace officers whose personnel files are likely to contain evidence of dishonesty or bias, which is maintained by a prosecutorial agency or office in accordance with the holding in *Brady v. Maryland* (1963) 373 U.S. 83. (Added by Stats. 2013, Ch. 779, Sec. 1. (SB 313) Effective January 1, 2014.)

3306.

A public safety officer shall have 30 days within which to file a written response to any adverse comment entered in his personnel file. Such written response shall be attached to, and shall accompany, the adverse comment. (Added by Stats. 1976, Ch. 465.)



**MARIN COUNTY PROBATION DEPARTMENT MANUAL**

3306.5.

(a) Every employer shall, at reasonable times and at reasonable intervals, upon the request of a public safety officer, during usual business hours, with no loss of compensation to the officer, permit that officer to inspect personnel files that are used or have been used to determine that officer's qualifications for employment, promotion, additional compensation, or termination or other disciplinary action.

(b) Each employer shall keep each public safety officer's personnel file or a true and correct copy thereof and shall make the file or copy thereof available within a reasonable period of time after a request therefor by the officer.

(c) If, after examination of the officer's personnel file, the officer believes that any portion of the material is mistakenly or unlawfully placed in the file, the officer may request, in writing, that the mistaken or unlawful portion be corrected or deleted. Any request made pursuant to this subdivision shall include a statement by the officer describing the corrections or deletions from the personnel file requested and the reasons supporting those corrections or deletions. A statement submitted pursuant to this subdivision shall become part of the personnel file of the officer.

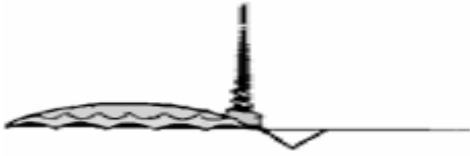
(d) Within 30 calendar days of receipt of a request made pursuant to subdivision (c), the employer shall either grant the officer's request or notify the officer of the decision to refuse

(e) to grant the request. If the employer refuses to grant the request, in whole or in part, the employer shall state in writing the reasons for refusing the request, and that written statement shall become part of the personnel file of the officer. (Added by Stats. 2000, Ch. 209, Sec. 1. Effective January 1, 2001.)

3307.

(a) No public safety officer shall be compelled to submit to a lie detector test against his or her will. No disciplinary action or other recrimination shall be taken against a public safety officer refusing to submit to a lie detector test, nor shall any comment be entered anywhere in the investigator's notes or anywhere else that the public safety officer refused to take, or did not take, a lie detector test, nor shall any testimony or evidence be admissible at a subsequent hearing, trial, or proceeding, judicial or administrative, to the effect that the public safety officer refused to take, or was subjected to, a lie detector test.

(b) For the purpose of this section, "lie detector" means a polygraph, deceptograph, voice stress analyzer, psychological stress evaluator, or any other similar device, whether mechanical or electrical, that is used, or the results of which are used, for the purpose of rendering a diagnostic opinion regarding the honesty or dishonesty of an individual. (Amended by Stats. 1998, Ch. 112, Sec. 1. Effective January 1, 1999.)



**MARIN COUNTY PROBATION DEPARTMENT MANUAL**

3307.5.

(a) No public safety officer shall be required as a condition of employment by his or her employing public safety department or other public agency to consent to the use of his or her photograph or identity as a public safety officer on the Internet for any purpose if that officer reasonably believes that the disclosure may result in a threat, harassment, intimidation, or harm to that officer or his or her family.

(b) Based upon his or her reasonable belief that the disclosure of his or her photograph or identity as a public safety officer on the Internet as described in subdivision (a) may result in a threat, harassment, intimidation, or harm, the officer may notify the department or other public agency to cease and desist from that disclosure. After the notification to cease and desist, the officer, a district attorney, or a United States Attorney may seek an injunction prohibiting any official or unofficial use by the department or other public agency on the Internet of his or her photograph or identity as a public safety officer. The court may impose

a civil penalty in an amount not to exceed five hundred dollars (\$500) per day commencing two working days after the date of receipt of the notification to cease and desist.

(Added by Stats. 1999, Ch. 338, Sec. 1. Effective January 1, 2000.)

3308.

No public safety officer shall be required or requested for purposes of job assignment or other personnel action to disclose any item of his property, income, assets, source of income, debts or personal or domestic expenditures (including those of any member of his family or household) unless such information is obtained or required under state law or proper legal procedure, tends to indicate a conflict of interest with respect to the performance of his official duties, or is necessary for the employing agency to ascertain the desirability of assigning the public safety officer to a specialized unit in which there is a strong possibility that bribes or other improper inducements may be offered. (Added by Stats. 1976, Ch. 465.)

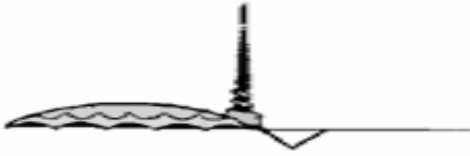
3309.

No public safety officer shall have his locker, or other space for storage that may be assigned to him searched except in his presence, or with his consent, or unless a valid search warrant has been obtained or where he has been notified that a search will be conducted. This section shall apply only to lockers or other space for storage that are owned or leased by the employing agency. (Added by Stats. 1976, Ch. 465.)

3309.5.

(a) It shall be unlawful for any public safety department to deny or refuse to any public safety officer the rights and protections guaranteed to him or her by this chapter.





**MARIN COUNTY PROBATION DEPARTMENT MANUAL**

(b) Nothing in subdivision (h) of Section 11181 shall be construed to affect the rights and protections afforded to state public safety officers under this chapter or under Section 832.5 of the Penal Code.

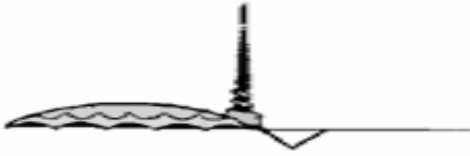
(c) The superior court shall have initial jurisdiction over any proceeding brought by any public safety officer against any public safety department for alleged violations of this chapter.

(d) (1) In any case where the superior court finds that a public safety department has violated any of the provisions of this chapter, the court shall render appropriate injunctive or other extraordinary relief to remedy the violation and to prevent future violations of a like or similar nature, including, but not limited to, the granting of a temporary restraining order, preliminary injunction, or permanent injunction prohibiting the public safety department from taking any punitive action against the public safety officer.

(2) If the court finds that a bad faith or frivolous action or a filing for an improper purpose has been brought pursuant to this chapter, the court may order sanctions against the party filing the action, the party's attorney, or both, pursuant to Sections 128.6 and 128.7 of the Code of Civil Procedure. Those sanctions may include, but not be limited to, reasonable expenses, including attorney's fees, incurred by a public safety department as the court deems appropriate. Nothing in this paragraph is intended to subject actions or filings under this section to rules or standards that are different from those applicable to other civil actions or filings subject to Section 128.6 or 128.7 of the Code of Civil Procedure.

(e) In addition to the extraordinary relief afforded by this chapter, upon a finding by a superior court that a public safety department, its employees, agents, or assigns, with respect to acts taken within the scope of employment, maliciously violated any provision of this chapter with the intent to injure the public safety officer, the public safety department shall, for each and every violation, be liable for a civil penalty not to exceed twenty-five thousand dollars (\$25,000) to be awarded to the public safety officer whose right or protection was denied and for reasonable attorney's fees as may be determined by the court. If the court so finds, and there is sufficient evidence to establish actual damages suffered by the officer whose right or protection was denied, the public safety department shall also be liable for the amount of the actual damages. Notwithstanding these provisions, a public safety department may not be required to indemnify a contractor for the contractor's liability pursuant to this subdivision if there is, within the contract between the public safety department and the contractor, a "hold harmless" or similar provision that protects the public safety department from liability for the actions of the contractor. An individual shall not be liable for any act for which a public safety department is liable under this section. (Amended by Stats. 2005, Ch. 22, Sec. 70. Effective January 1, 2006.)





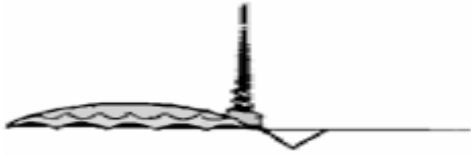
## County of Marin

3310.

Any public agency which has adopted, through action of its governing body or its official designee, any procedure which at a minimum provides to peace officers the same rights or protections as provided pursuant to this chapter shall not be subject to this chapter with regard to such a procedure. (Added by Stats. 1976, Ch. 465.)

3311.

Nothing in this chapter shall in any way be construed to limit the use of any public safety agency or any public safety officer in the fulfilling of mutual aid agreements with other jurisdictions or agencies, nor shall this chapter be construed in any way to limit any jurisdictional or interagency cooperation under any circumstances where such activity is deemed necessary or desirable by the jurisdictions or the agencies involved. (Amended by Stats. 1977, Ch. 579.)



**MARIN COUNTY PROBATION DEPARTMENT MANUAL**

**VII. Personnel**

**H. Policy Statement on Flextime**

*Effective Date: 01/02/2007*

*Approved: Michael Daly*

*Review Date: 01/30/2015*

*Prepared By: Michael Daly*

*Amended Date: 05/14/2018*

*Amended by: Mariano Zamudio*

**General Policy**

Employees not in “post” positions may request flextime. Serving the public and not disrupting daily operations are primary factors in deciding whether an employee may have flextime granted.

**Definition**

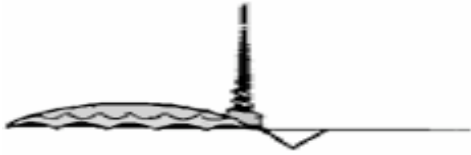
Post Position: Juvenile Corrections Officers assigned to work the Juvenile Hall on assigned shifts.

Flex-time – Flexibility around a set work schedule and/or flexibility on a daily basis.

The other following factors are among those to be given serious consideration in response to a staff request for flextime. These are by no means all-inclusive, however, and other factors may apply:

1. The proposed schedule must fall within the Department core hours.
2. The proposed schedule adjustment must be submitted to the immediate supervisor for approval.
3. The proposed schedule must allow for staff’s availability for routine training and meetings
4. The proposed schedule must not compromise any of the functions of the unit, other units, outside agencies, or the Department overall.
5. The proposed schedule should not place additional tasks on other staff, including the supervisor.
6. The Department retains the right to approve the proposed flextime.

Staff seeking approval to flex their regular schedule should review the above criteria and discuss their plan with their Supervisor who may approve the plan.



**MARIN COUNTY PROBATION DEPARTMENT MANUAL**

**VII. Personnel**

**I. Policy Statement on Reassignment/Transfer Requests**

*Effective Date: 01/02/2007*

*Approved: Michael Daly*

*Review Date: 01/30/2015*

*Prepared By: Michael Daly*

*- Amended Date: 06/30/2014*

*Amended By: Alisha Krupinsky*

*Amended Date: 05/14/2018*

*Amended By: Mariano Zamudio*

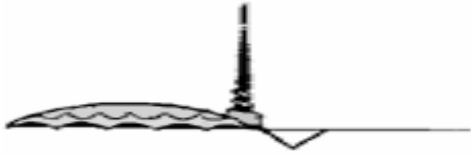
**General Policy**

**Employee Requests for Reassignment/Transfers**

All Department staff are encouraged to increase their professional development and job satisfaction through reassignment/transfer to other functions consistent with the needs of the Department, the Courts, and the people we serve. Work assignments are subject to the approval of the Chief Probation Officer, who may delegate to the Chief Deputy. In processing reassignments and transfer requests, management will consider workload trends, existing vacancies, employee's skills or special abilities, physical ability/limitation (consistent with the ADA or other applicable laws), employee's development/cross training, seniority and time in present assignment, level of performance, the employee's preference as to assignment and to job location, and any other factors that management may deem to be appropriate at the time.

**Guidelines:**

- (A) Staff at any level may request reassignment or transfer to any position within the Department at their current job class level for which current employment classification qualifies him/her. This request must be submitted in writing to the Supervisor for forwarding to the Chief Probation Officer or his/her designee.
- (B) Employee's most recent evaluation rating should be at least "Meets Standards" as a prerequisite to requesting reassignments.
- (C) It is the employee's responsibility to initiate reassignment request and to keep their Supervisors advised that they wish to be considered for specific assignments. The request will remain active for one year, unless the employee wishes to withdraw his/her request by written notice.
- (D) The Department will inform staff in writing when they are not able to accommodate their request for reassignment/transfer. Staff will be given an explanation for the reason for the denial within the limits of confidentiality requirements. This denial is not grievable.



## MARIN COUNTY PROBATION DEPARTMENT MANUAL

### Procedure

1. The employee should submit a written request to his/her Supervisor stating his/her interest in reassignment to another Division and/or unit or to another position in the current unit.
2. The request will be discussed with the Supervisor who will then forward the request to the Chief Probation Officer, with or without recommendation for approval.
3. The request will be placed in a file with the Chief Deputy Probation Officer to be held until an opening for a reassignment is available.
4. All vacant positions will be posted by e-mail by management for two weeks prior to consideration for reassignment to the positions.

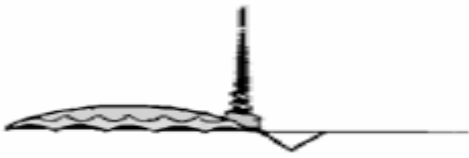
### Reassignments Initiated by Management

It is the right of management to assign employees to meet the needs of the Department. Therefore, all staff are subject to reassignment consistent with the needs of the Department and the public we serve. Reassignments initiated by Management will be discussed with the impacted employee as much in advance as possible. The reasons for a reassignment initiated by Management will be provided to the impacted employee, but not necessarily to other staff, especially when confidentiality laws prevail. Management-initiated reassignments may supersede voluntary reassignments.

### Guidelines:

1. Efficient management of Departmental workload
2. Service needs to Court, probationer/minor and community
3. Fiscal constraints
4. Equal Employment Opportunities
5. Professional growth and development
6. Special skills
7. Legislative requirements

Management-initiated reassignments are not grievable. However, an employee who feels that there has been a violation of any county policy may file a grievance according to the grievance procedure contained in the MOU or the complaint procedures contained in the Personnel Management Regulations.



**MARIN COUNTY PROBATION DEPARTMENT MANUAL**

**VII. Personnel**

**J. Policy Statement on Performance Evaluations**

*Effective Date: 01/02/2007*

*Approved: Michael Daly*

*Review Date: 01/30/2015*

*Prepared By: Michael Daly*

*Amended Date: 05/14/2018*

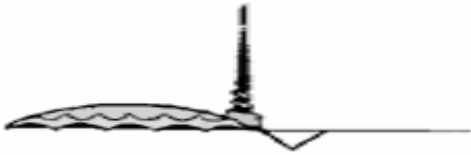
*Amended By: Mariano Zamudio*

**General Policy**

- A. Regular performance evaluations are required by the County. In addition, Performance Evaluations are an important method of providing feedback to employees. Probationary employees must be evaluated at the end of their probationary period, as well as at any intervals determined by the applicable MOU. All regular employees shall be evaluated annually in writing and may be evaluated at any interval during their course of employment with this department.
- B. All immediate supervisors will maintain ongoing documentation of the job performance of each person under their direct supervision.
- C. All performance evaluations will be used as an opportunity to constructively review the employee's contributions, and as a means of providing direction for improvement of professional development, job satisfaction and productivity. Performance evaluations will be comprehensive, fair, accurate, timely, sensitive and candid. Accurate evaluations are the responsibility of the supervisor.
- D. Performance evaluations will address the employee's goals, strengths, and areas for development. When an area of development is identified, the Supervisor will develop a plan with the staff to help him/her reach their goal.

When an area in need of development is identified, the evaluation will identify the area(s) needed with a specific plan of action to assist the staff.

Reference [PMR 43: Performance Planning & Evaluation - County of Marin](#)



**MARIN COUNTY PROBATION DEPARTMENT MANUAL**

**VII. Personnel**

**K. Policy Statement on Teleworking**

*Effective Date: 01/02/2007*

*Approved: Michael Daly*

*Review Date: 01/02/2009*

*Prepared By: Michael Daly*

*Amended Date 06/05/2011*

*Amended By: Mariano Zamudio*

*Amended Date: 06/30/2014*

*Amended By: Alisha Krupinsky*

*Amended Date: 05/14/2018*

*Amended By: Nuvia Urizar*

*Approved by: Mariano Zamudio*

**General Policy**

Criteria to be considered in reviewing requests of staff for Teleworking:

Teleworking is an alternative work arrangement and a privilege, not a right or entitlement. Employees interested in teleworking must first review PMR No. 27 in its entirety.

County of Marin PMR No. 27 sets out the policies and procedures for teleworking by County Employees in great detail.

Some positions in the Probation Department do not lend themselves to teleworking, given the need for staff to be available to their co-workers, the public and the Courts (PMR No. 27.2, B-1). Periodic teleworking may be appropriate for staff assigned to those field division functions which produce clearly measurable work products.

To apply for telework, an individual completes the telework agreement and follow the steps outline in PMR No. 27, including completion of all applicable parts of PMR 27-Form 1, and meet all of the eligibility criteria contained in PMR No. 27. They must have passed the probationary period, be free of performance issues, and have demonstrated to the supervisor the ability to function with a high degree of independence. Once the agreement is completed, the employee can request a telework day. When requesting a telework day, a plan for that given day should be submitted to the supervisor the day before. The following factors are among those to be given serious consideration by a supervisor in response to a staff request to implement a telework plan. These are by no means all-inclusive, however, and other factors may apply:

- A telework plan is not a set weekly day for the employee to telework, but it is workload driven.
- The plan submitted by staff must serve the best interest of the Public, the Courts, and the Probation Department.
- The plan must have the approval of the immediate supervisor or the Senior PO of the unit of the person making the request.



## MARIN COUNTY PROBATION DEPARTMENT MANUAL

- The telework plan may be combined with any other form of alternative work schedule as long as this has been approved by a supervisor.
- The plan must take into account all rotating or cyclical tasks (i.e. court officer, urine- testing duty etc.) so that other staff are not impacted by a teleworker's absence from the office.
- The plan must allow for flexibility to attend routine training and meetings.
- The plan must not compromise any of the functions of the unit, other units, outside agencies, or the Department overall.
- The plan must not place additional tasks on any other staff.
- Teleworking staff may be directed to report to the office by a supervisor on any telework day.

If a supervisor denies a request to telework, the reason for denial shall be discussed with the employee. All employees should complete the PMR 27-Form 1 yearly and this must be forwarded to the Deputy Chief Probation Officer or his/her designee for approval, then to Human Resources for filing in the employee's official personnel file.

### **Requirements of Teleworking Staff**

#### **Safety**

Staff engaged in teleworking are to have no physical contact with defendants, victims, or other members of the public associated with the case during their telework hours. Staff also must take precautions to protect their home phone numbers from being identified by outside parties and are therefore required to utilize a Department issued cell phone for client contacts during their telework hours.

#### **Confidentiality**

Staff engaged in teleworking are to maintain criminal case record confidentiality, including all CLETS, JURIS, EJUS, ODYSSEY and PRISM materials. Confidentiality also must be maintained in all physical and mental health records governed by HIPPA. Confidential files are to be transported in a secure section of a vehicle and kept in a locked drawer or file cabinet in the employee's home office, with no access to anyone other than the teleworker. All confidential files must be returned to the office upon the completion of the related task for proper filing or disposal.

Teleworkers having direct access to JURIS, EJUS, PRISM, ODYSSEY or other criminal record sites online must maintain confidentiality of the electronic information and not allow any unauthorized person to view it.



## MARIN COUNTY PROBATION DEPARTMENT MANUAL

### **File Accountability**

Teleworking staff with access to PRISM or ODYSSEY must keep their case notes entries current, so other staff can be aware of the case status even if the file is not immediately available.

### **Equipment**

The Department assumes no responsibility for providing, maintaining, or repairing any personal equipment used in the home of a teleworker.

### **Managing for Results**

Teleworking staff are expected to produce the same quality and quantity of work as non- teleworking staff in their respective assignments. They are required to meet all of the same tasks and standards for their positions. The written work product will be the principal means by which the supervisor will evaluate the effectiveness of the telework plan. Teleworking is workload driven and a Supervisor may deny the telework request of any employee at any time if issues arise around the quality, quantity, or timeliness of work product, other performance issues.

### **Telework Hours**

Staff are to record their telework hours on their time sheets, and record on the InOut Board. Any variation from this work schedule must be approved in advance by the supervisor. Emergency changes (i.e., illness, family emergency) must be phoned in to the supervisor the same day. Time sheets will reflect any emergency changes.

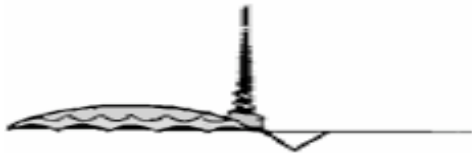
To successfully accomplish the job responsibilities, a teleworker must minimize personal disruptions such as routine child care, non-work telephone calls and visitors during scheduled telework hours.

Teleworking staff are required to be available to their supervisors and coworkers by phone and e-mail, and to respond according to Department guidelines for all staff.

Teleworkers are to check their office voicemail and e-mail messages on an hourly basis and return telephone calls and e-mails as they would in the office before the end of the work day.

Reference [PMR 27](#)





MARIN COUNTY PROBATION DEPARTMENT MANUAL

VII. Personnel

L. Policy Statement On-the-Job Injuries/Accidents

Effective Date: 01/02/2007      Approved: Michael Daly  
Prepared By: Michael Daly  
Reviewed Date: 01/30/201      Reviewed by: Michael Daly  
Amended Date: 06/04/2018      Amended By: Mariano Zamudio

**Injury Reporting by Departments**

Upon the occurrence of any occupational injury and/or illness, the employee will report the occurrence immediately to their Supervisor.

A. In the case of an emergency which requires immediate medical assistance, 9-1-1 emergency assistance shall be called, and the employee taken to the nearest hospital or emergency facility.

B. It is the obligation of the employee, with the assistance of the supervisor, to complete the mandated forms.

The Supervisor will ensure the completion of the **Employer's Report of Occupational Injury or Illness (Form 5020)**.

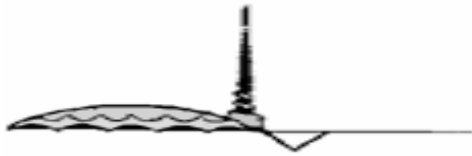
In addition to this form, the Supervisor of the injured employee will complete the County **Accident Investigation Form (MCSF-4)** as a supplement to the State form. Finally, a State **Worker's Compensation Claim Form (DWC Form 1)** will be given to every employee who sustains a work-related injury. Copies of all these forms are obtainable from the Risk Management Department.

Supervisors are to ensure that all these forms are thoroughly completed within 24 hours of the notification/occurrence of the injury. Original forms are copied to facilitate any Departmental injury tracking procedures.

The originals of all forms are to be submitted within 48 hours of the notification/occurrence to Risk Management, room 421. **It is mandatory that all forms are completed within the allotted time.**

Upon receipt of the above forms, Risk Management will:

- Report any fatality and/or serious injury or illness\* to Cal/OSHA via telephone.

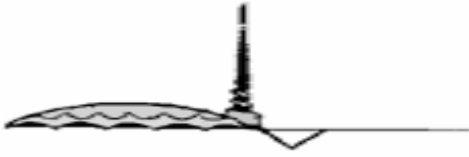


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- Analyze the accident report forms submitted by the injured employee's Department and contact the Department to ensure an investigation has or will be conducted within the requisite time frame.
- Conduct a supplemental investigation if requested by the Department as deemed necessary by Risk Management.
- Assist the Department to ensure the problem(s) which caused the injury or illness have been mitigated and the hazard abatement has been documented on the **Accident Investigation Form**.

[\*A *serious injury or illness* is defined as any injury or illness which results in: (1) hospitalization longer than 24 hours for anything other than observation; (2) loss of a body part; (3) permanent disfigurement.]



**MARIN COUNTY PROBATION DEPARTMENT MANUAL**

**VII. Personnel**

**M. Policy Statement on Alternative Work Schedules**

**Effective Date:** 02/01/2010 **Approved:** Michael Daly  
**Review Date:** 01/30/2015 **Prepared By:** Mariano Zamudio  
**Amended Date:** 06/30/2014 **Amended By:** Alisha Krupinsky  
**Amended Date:** 09/6/2017 **Amended By:** Mariano Zamudio  
**Amended Date:** 04/10/2017 **Amended By:** Mariano Zamudio

The purpose of the alternative work week schedule is to provide maximum flexibility to both employees and the Department, while maintaining consistency among the affected units, divisions, and employees. Additionally, they provide employees with an alternate work schedule which might better accommodate the employee's personal life style, as well as the work requirements of the employee's job.

It is the policy of this department that alternative work schedules are an employee privilege, not a right. Management reserves the right to revise or withdraw any alternative work schedules, if work performance is deemed unsatisfactory, or if the needs of the Unit, Division, or Department require it.

The goal of this optional program is to:

- A. Support healthy work environment and employee morale.
- B. To support work schedules that require flexibility in order to provide services during non-traditional work hours (i.e., early morning, evening, and night).
- C. Provide schedule flexibility that preserves productivity and promotes personal work/life balance.
- D. Enhance working conditions for more successful recruitment and retention.
- E. Reduce employee travel and negative environmental impact.



## MARIN COUNTY PROBATION DEPARTMENT MANUAL

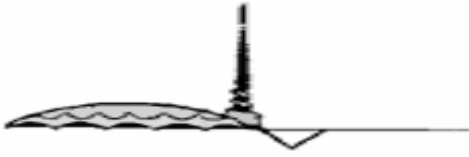
Employees involved in alternate work schedules have the same responsibility as all employees to maintain the level of service to the Department's clients, while assuring there is no net increase in overall costs relative to the benefits of this program to the Department.

Some employees may need to maintain a standard schedule because of the nature of their job or the size of the work unit, or to meet our clients' needs. Some may wish to stay on a standard schedule for personal reasons.

Although having a common day off for all employees could make program administration easier, the Department believes that on balance, the existing flexibility is more beneficial to our clients and employees.

### **Definition of a 9/80 and 4/10 Alternative Schedule**

1. A 9-80 work week consists of eight – nine-hour working days and one designated eight-hour day during an 80-hour pay period. An employee has one additional day off during the 80-hour pay period. A 4-10 work week consists of four – ten hour working days and a designated day off during a work week period. The employee's additional day off must remain the same during subsequent pay periods. With the 4-10 schedule, you will remain on your assigned day within the rotation. The rotation will consist of Monday, Wednesday or Friday and will rotate every quarter.
2. When an eight-hour holiday falls on a scheduled nine-hour workday, an employee has the option to use 1 hour of vacation, comp or accrued holiday hours to make up the 1-hour difference (i.e., 8 hours holiday plus 1-hour vacation time). An employee will have the option of flexing to make up for that hour with supervisor approval. When an eight-hour holiday falls on a scheduled ten-hour workday, an employee has the option to use 2 hours of vacation, comp or accrued holiday hours to make up the 2-hour difference (i.e., 8 hours holiday plus 2 hours vacation time). An employee will have the option of flexing to make up for those 2 hours with supervisor approval.
3. If a holiday falls on an employee's scheduled day off, the employee will take a different day off in that work week, after consultation with their supervisor.



## **MARIN COUNTY PROBATION DEPARTMENT MANUAL** **Definition of a 9/75 and a 4/37.5 Alternative Schedule**

1. A 9-75 work week consists of eight, eight and one half-hour working days and one designated seven-hour day during the 75-hour pay period. An employee has one additional day off during the 75-hour pay period. The employee's additional day off must remain the same during subsequent pay periods. 4-37.5 work week consists of 3-9.5-hour days and one – 9-hour day. An employee has one additional day off during the 37.5 pay period. The employee's additional day off must remain the same during subsequent pay periods. With the 4-37.5 schedule, you will remain on your assigned day within the rotation. The rotation will consist of Monday, Wednesday or Friday and will rotate every quarter.
2. When a seven and a half-hour holiday falls on a scheduled eight and a half-hour workday, an employee is required to use 1-hour vacation, comp or accrued holiday hours to make up the 1-hour difference (i.e. 7.5 hours holiday plus 1-hour vacation time). An employee will have the option of flexing to make up for that hour with supervisor approval. Such flexing must occur within the same week due to payroll system limitations. When a seven and a half-hour holiday falls on a scheduled nine-hour day or a nine-and-a-half-hour day, an employee is required to use 1.5 hours or 2 hours vacation, comp or accrued holiday
3. If a holiday falls on an employee's scheduled day off, the employee will take a different day off in that work week, after consultation with their supervisor.

### **Criteria**

Any employee is eligible to request an Alternative Work Schedule under this policy, providing the following criteria is met:

#### The employee

1. is not in a probationary status
2. is not assigned to Juvenile Hall
3. has worked full-time for one year in their current classification
4. is rated as meets standards or better in work performance
5. employee must partner with one or more peer employee(s) in either the same unit, work assignment, division or similar department function, for the purpose of covering one another's workload, duties, and work responsibilities on regularly scheduled days off.



## MARIN COUNTY PROBATION DEPARTMENT MANUAL

- A. four-ten alternative schedule will be based on a rotation basis to ensure that there is enough coverage to maintain an adequate level of service through the regular week to our clients. The rotation will ensure every employee at some point, the opportunity of an extended weekend

### Parameters

- A. The employee must meet productivity expectations while participating in an alternative work schedule.
- B. Each employee is responsible for his or her workload and must ensure that all work is completed on time.
- C. Alternative work schedules may not divert any or all of an employee's anticipated workload to another employee.
- D. Alternative work schedules shall not relieve employees from attending court appearances, office meetings, required training, or other essential "core functions" of an assignment. Individuals participating in an alternative work schedule agree to return to a standard work schedule if their work partner is unable to cover their partner's work due to extended time off (beyond two weeks), i.e. vacation, training, medical, etc.
- E. Management will make every effort to give employees advance notice of changes to work schedules, consistent with their respective labor agreement.
- F. Any modification or change to the alternative work schedule must be pre-approved by one's supervisor or Director.
- G. Monday through Friday alternative work schedules for staff must be contained within 6:30 a.m. and 7:00 p.m. time parameters. Though not usually maintained as a regular weekly schedule, it is understood that probation officers sometimes work non-traditional field hours that extend beyond 7:00 p.m. Such fieldwork is encouraged and can be accommodated by "flexing" of one's schedule beyond 8:00 p.m., with supervisor's approval, and so long as the probation officer does not work more than 40 hours within the defined work week. Schedules for other positions must begin no earlier than 6:30 a.m. and end no later than 7:00 p.m. unless a special assignment or project requires otherwise.

Alternative work schedules may be revised or terminated for cause(s) related to workload, work performance or service delivery demands. Advanced notice of one pay period will be given when schedules must be revised or terminated. Any such revision or termination of an alternative work schedule will be reviewed and approved by the respective Division Director



## MARIN COUNTY PROBATION DEPARTMENT MANUAL

- H. No overtime is to be paid as part of an alternative work schedule unless approved by a supervisor.
- I. An employee's alternative work schedule is subject to modification or revision upon transfer, reassignment, or promotion. The employee shall apply for a new alternative work schedule, if desired, after assuming their new responsibilities.
- J. When employees are notified of or know in advance of meetings, court hearings, or
- K. required training that will result in working on a scheduled workday off, the employee shall switch to a regular work schedule for that pay period and resume the alternative work schedule the following pay period.
- L. Each employee is responsible for signing out on the In/Out Board indicating their time off as requested day off or "RDO". In addition, the employee will indicate on the In/Out Board which employee is covering as their work partner on their RDO.

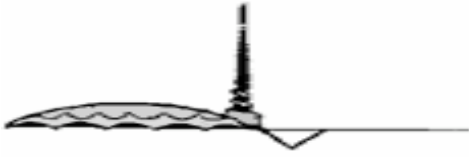
### **Application Process**

The employee prepares The Alternative Work Schedule Form requesting the specific alternative work schedule, including the requested additional day off, and submits it to their immediate supervisor. The request must include employee's plan for coverage of work on their requested day off. It must also include the name of the partnering employee and his/her proposed work schedule. It is preferred that both partner requests be made at the same time, although not required as partner swaps are possible.

### **Evaluation and Approval**

The unit supervisor shall review, evaluate, and respond to the alternative work request within ten working days.

The evaluation will consider whether such a schedule will unduly impair the work or operation of the unit concerned. It will also consider a number of other factors, such as availability of adequate coverage and supervision, overall costs to the Department that may be incurred, impact on the effectiveness of the work unit and its employees, the potential for an out-of-class situation, and response to client needs.



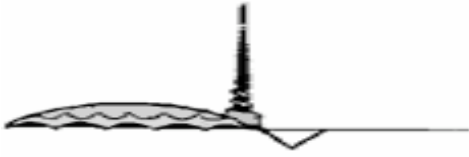
### MARIN COUNTY PROBATION DEPARTMENT MANUAL

Also, in evaluating whether to approve or deny a proposed alternative work schedule, supervisors are required to ensure that the services assigned to a unit can be provided to meet customer needs. Each unit must have coverage from 8:00 a.m. to 4:00 p.m., Monday through Friday, and there must be at least one person available at all times. **Providing Department services may preclude some employees from participating in the alternative work schedule program and/or may require that it be implemented on a rotational basis.**

In order to comply with the requirements of the Fair Labor Standards Act (FLSA), employees who are approved to participate in an Alternate Work Schedule will work with his/her supervisor to establish the work week, so that the employee works only 40 hours within the established 7-day period. This agreement, in writing, must be in place before the employee is allowed to begin an alternate work schedule.

Plans meeting the stated interests of the program will be approved by the unit supervisor and confirmed by the Division Director. Employees not approved for participation in the program may request that the Chief Deputy review the decision. The Chief Deputy's decision is final and is not grievable.





**MARIN COUNTY PROBATION DEPARTMENT MANUAL**

**VII. Personnel**

**N. Policy Statement on Coaching**

***Effective Date:07/01/2017***

***Prepared By:Michael Daly***

***Approved: Michael Daly***

***Review Date:06/04/2018***

***Reviewed By:Mariano Zamudio***

The Marin County Probation Department seeks to be the best probation agency in the State of California. In order to achieve that goal, the Department recognizes that staff are the most important key to its success.

Coaching is a forum for ensuring that the Marin County Probation Department delivers the highest quality of service. At the Marin County Probation Department, formal coaching is a mandatory process in which the coach is available and ready to serve in their coachee's professional development.

**Procedure**

Staff members and supervisors will meet on a quarterly basis, at minimum. This will require that staff meet with their supervisors in one-on-one sessions to collaboratively review goals, progress, areas of development, opportunities, issues, situations and/or circumstances to support the achievement of excellence in the performance of their duties. In these sessions the employee and supervisor will fill out and maintain the coaching template. Coaching session and documentation will be utilized to inform the staff's yearly evaluation.

Being task-oriented and performance-driven are key in expanding the coachee's skills and abilities. While the process is coachee-driven, the coach may still have an agenda to guide the coachee in reaching and exceeding their professional potential. To that end, coaching is a time for the coach to explain strengths and areas for improvement if there are concerns with performance.

Coaching is not to be used interchangeably with mentoring, which is when a professional and personal relationship exists between any two people within the County. Mentoring's aim is for long-term, career-long development which often goes beyond the employee's current work assignment.

Coaching is also considered separate from day to day supervision of employees, as coaching has a longer-term emphasis on removing barriers that impede a staff person from achieving excellence. The practice of coaching helps to "connect the dots" between a staff person's completion of their tasks and the agency's performance of its mission and goals. It seeks to develop the confidence and competence of the staff person to solve their own problems or challenges and create greater capacity for the organization as a result.



**MARIN COUNTY PROBATION DEPARTMENT MANUAL**

**VII. Personnel**

**O. Policy Statement on Photograph/Media Use**

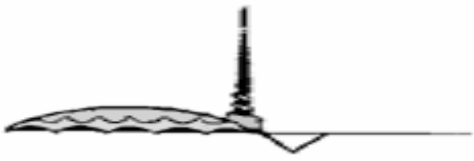
*Effective Date: 08/07/2018*  
*Prepared By: Nuvia Urizar*

*Approved By: Mariano Zamudio*

To address the fast-changing landscape of the Internet and the way we communicate and obtain information online, the Marin County Probation Department will use social media as a tool to reach a broader audience. We encourage the use of social media to further the goals of the mission of the department where appropriate.

It is the policy of the Marin County Probation Department to use any photographic, video/film image, audio recording, or verbal/written statement which involves staffs' likeness or image, submitted or posted for website and/or social media usage will require your written consent. Any photograph/media becomes the property of the Probation Department and may be used for the purpose of publication and other communications in any manner and without compensation as the department deems appropriate, now and into the future.

A Photograph/Media Release Form will be provided for each employee to sign. Likewise, if you wish to permit any media or photographs of your minor children to be published, that must also be indicated on the authorization form. This form will be kept in staff's personnel file



**MARIN COUNTY PROBATION DEPARTMENT MANUAL**

**VIII. Communications**

**A. Policy Statement on Media and Public Relations**

*Effective Date: 01/02/2007    Approved: Michael Daly*  
*Review Date: 01/30/2015    Prepared By: Michael Daly*  
*Reviewed Date: 06/04/2018    Reviewed By: Mariano Zamudio*

The Probation Department shall manage public information providing timely information regarding its operations and performance in accordance with statutes governing public disclosure and Probation Department policies and procedures.

**Procedure:**

- A. The Chief Probation Officer or the Chief Deputy Probation Officer are designated as the official spokespersons for the Department and will represent the Department unless otherwise delegated
- B. News Media Inquiry: Any Probation Department employee receiving a media inquiry shall be responsible for referring the inquiry to the Chief Probation Officer or the Chief Deputy Probation Officer or his/her designee as soon as possible.



**MARIN COUNTY PROBATION DEPARTMENT MANUAL**

**IX. Operational**

**A. Policy Statement on Field Visits**

*Effective Date: 08/29/2008*

*Review Date: 01/30/2015*

*Amended Date: 02/05/2010*

*Amended Date: 03/30/2012*

*Amended Date: 06/30/2014*

*Amended Date: 06/04/2018*

*Approved: Michael Daly*

*Prepared By: Michael Daly*

*Amended By: Mariano Zamudio*

*Amended By: Alisha Krupinsky*

*Amended By: Mariano Zamudio*

**General Policy**

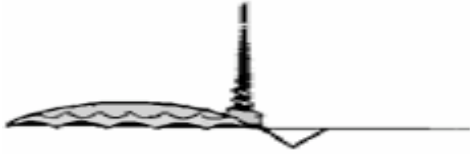
Field visits of probationers are considered essential to effective supervision. Probation Officers assigned to field supervision are expected to adhere to contact standards developed within their assigned units. Probation Officers will conduct field visits in accordance with policy and procedures, training, and proper equipment.

**Procedure**

The DPO shall make field visits to the residence of the offender in order to gain insight into living arrangements and lifestyle. This contact will differ dependent upon the type of offender, nature of the geographic area, and agency policy. DPO's shall inform probationers that both announced and unannounced home visits may be made at their residence. DPO's shall encourage probationers/wards to advise other residents in the home regarding announced and unannounced Probation visits.

DPO's shall use discretion for their own safety and the safety of others and act in accordance with the policy of home visits/field calls. Consultation with the Supervisor, lead staff, or Division Director shall be made when the potential for violence or harm to the DPO exists at or near the probationer's home. A DPO is never compelled to complete a particular visit if circumstances indicate the potential for personal harm to the Officer.

There is no expectation for any officer to frequent an area that poses a serious risk to them. When this situation arises, the DPO shall discuss this with their Supervisor, or lead staff, in a timely manner. Other locations to meet the probationer shall be discussed. This discussion shall be documented in case notes.



### MARIN COUNTY PROBATION DEPARTMENT MANUAL

#### Field Visits

At the initial meeting the DPO is to conduct an orientation with the probationer, prior to making a field contact. During the initial probation contact conducted by a DPO, the DPO shall request information about the defendant's background, the area in which he/she lives, other individuals living in the household, the layout, other persons with criminal histories, pets and whether other residents of the household are on probation or parole. An understanding shall be established that the probationer will likely be contacted outside of the Probation Department.

When conducting a home visit, DPOs shall always take basic precautions.

1. Check the probationer's court orders and legal address of record prior to visiting their home. Check the probationer's name, spouse/partner and any other friends or relatives living in the home to be visited/searched. Review criminal records, search and seizure conditions, protective orders, stay away orders, weapons registered to and any other officer safety concerns when considering a home visit.
2. DPO's shall sign out on the InOut Board giving an estimated time of return to the office or completion of the field visits if not returning to the office. DPO's shall have a cell phone and a radio with them. ***DPO's shall answer all incoming calls and/or radio traffic.***
3. When conducting a field contact DPO's shall call/radio Comm Center and advise the location., After leaving the contact location, call/radio Comm Center or the local jurisdiction and inform them.
4. While visiting clients at work and school sites e DPOs shall use discretion in the course of the contact, keeping in mind the probationer's confidentiality.
5. Have a previously determined plan of how to respond if you come upon illegal substances/crimes in progress. It is preferred to work in teams and discuss scenarios in a variety of situations prior to the field visit, so non-verbal or other methods of communication can be used.
6. Always position yourself in a manner to easily exit.

If DPO's have any concerns about safety, they shall speak with a Supervisor or lead staff about those safety concerns. Remember, no home or field visit is an emergency and can always be done at a later time when safety concerns are mitigated/addressed.



## County of Marin

### MARIN COUNTY PROBATION DEPARTMENT MANUAL

#### Home

Additionally, the following guidelines shall be observed when making home contacts:

- Depending on the nature of the visit, determine what supplies will be required for the home visit (testing kit, search kit, flashlight for night visits, etc.)
- Prior to the initial home visit, DPO's shall use a GPS/map and plot the safest route(s). If unsure of the area, consult DPO's familiar with the area or call the law enforcement agency having jurisdiction in the area. DPO's are encouraged to drive through the area at an earlier time/date prior to the visit to gain familiarity in the neighborhood.
- Radio/call Comm. Center prior to the field visit giving location of the home. DPO's shall provide their radio call sign and answer the radio if called. DPO's shall contact Comm. Center when leaving the residence.
- Prior to using a county vehicle, all DPO's shall adhere to the vehicle usage policy. Including performing a safety inspection of the vehicle, wear seatbelts, lock the car doors upon exit, and be aware of the surroundings at all times.
- Upon arriving at the destination, and when appropriate, pass by the residence to check the surroundings. Special attention should be given to individuals loitering in the area, occupied parked cars, loose dogs, etc. If uncomfortable with the situation, cancel the field visit and discuss the situation with your Supervisor. Law enforcement assistance may be needed in the future.
- When possible, avoid parking the vehicle directly in front of the probationer's residence. When making a field visit at night, park in a well-lit area close to the residence. Unless in an emergency, never park in the residence driveway.
- Before entering the property be aware of possible officer safety hazards such as dogs, chemical smells, loose steps, etc. Again, if the situation does not seem right, trust your instincts and leave the area.
- When approaching the residence, be alert to sounds from the inside of the residence. Before knocking, stop, listen, and observe. Prior to entering the residence, scan the visible interior. If the situation inside does not seem right (unknown individuals, unrestrained dogs, chemical smells), terminate the visit.
- Once inside the residence, determine who is in the residence and where they are located. Before interviewing, scan the surrounding areas for objects that could be used for weapons and try to control their availability through seating arrangements and/or removal of the objects.



## County of Marin

### MARIN COUNTY PROBATION DEPARTMENT MANUAL

- Always ask if there are any weapons i.e. guns or other items that may be construed as a dangerous weapon. If there are weapons, ask where, ascertain who they belong to, are they registered, how are they stored etc. Document findings in case notes.
- When initiating your contact/interview with the probationer, direct the location of that interview to be in an area that is safe with telephone access. A visual scan for any potential weapons in the area is a good safety practice
- Be aware of your limitations in confronting a probationer/other residents while in their home. Attempt to conduct the visit in a controlled setting where there is minimized foot traffic/interruptions.
- When conducting a chemical test and/or search, follow specific procedural guidelines for those activities.
- At initial home visit or when otherwise appropriate, request a walk- through of the house to review the floor plan. Note specific room locations, exits, hazards, etc.
- Before leaving the residence, scan the area in front of the house and where your vehicle is parked.
- Once in the vehicle, lock your doors and follow your preplanned departure route out of the area. Once the vehicle is moving, call/radio Comm. Center and inform them you are clear of your last location.
- Prior to returning to the office, carefully search the vehicle's interior/exterior to determine if any objects or contraband were left in the vehicle; remove any personal belongings and check the gas gauge. If gauge is less than ½ full, DPOs shall fill up the vehicle with gas.
- Upon returning to the office, update the In Out board and enter case notes within two business days of the contact in PRISM/Odyssey.

#### **At work location contact**

The following guidelines shall be observed when making employment contacts:

- Consideration should be given to meeting the defendant at lunch or during a break.
- Determine if the situation dictates the need for a partner, persons of the opposite sex i.e. urine test.
- Locate the business on a map prior to the visit and plot the shortest/safest route.

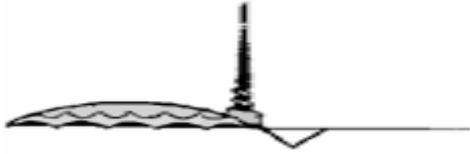


## **County of Marin**

### **MARIN COUNTY PROBATION DEPARTMENT MANUAL**

- Always bring a cellular phone and radio. All department issued equipment.
- Park your vehicle in a safe location and observe your surroundings before exiting the vehicle. If the situation appears unsafe, either cancel the field visit or call the defendant and request that he/she meet you outside.





**MARIN COUNTY PROBATION DEPARTMENT MANUAL**

**IX. Operational**

**B. Policy Statement on Arrest of Probationers**

*Effective Date: 01/02/2007*

*Review Date: 06/30/2009*

*Amended Date: 03/30/2012*

*Amended Date: 01/30/2015*

*Amended Date: 06/04/2018*

*Approved: Michael Daly*

*Prepared By: Michael Daly*

*Amended By: Mariano Zamudio*

*Amended By: Mariano Zamudio*

*Amended By: Mariano Zamudio*

All Probation Officers/Juvenile Correction Officers have the authority to arrest under PC 830.5. The Marin County Probation Department authorizes probation officers to arrest for violations of probation and pursuant to PC 836. No arrests shall take place unless the peace officer has successfully completed P.C. 832.

**Procedure**

When affecting an arrest, officers must consider other relevant policy and procedures contained in this section. To insure the safety of both the officer and the probationer, the officers will adhere to department procedures and guidelines in effecting an arrest. No arrest should take place without the proper department issued and/or approved safety equipment and training.

When an officer suspects or determines that a probationer is in violation of a condition of probation, the officer will evaluate the circumstances of the situation to assess the appropriate level of response. Some violations dictate immediate response and arrest while others allow for the filing of a petition or graduated sanctions

**Arrest Procedure Training**

Officers assigned to supervision caseloads are required to obtain initial and ongoing training to learn safe and correct procedures for arresting and transporting probationers. It is critical for officer safety that officers are well trained and versed in proper procedures when making arrests and transporting prisoners.



## MARIN COUNTY PROBATION DEPARTMENT MANUAL

### A. Pre-Arrest Procedures

Whenever possible, officers should plan out a course of action prior to affecting an arrest. After having made a determination that a probationer's actions necessitate an arrest, the Probation Officer will carry out the following:

1. Confirm case status, including probation conditions, pertinent medical information and officer safety related information.
2. Make collateral contacts if needed to confirm and acquire copies of outstanding warrants and verify information regarding alleged violations.
3. If law enforcement is required for safety reasons, at the time of arrest coordinate the arrest plan with local law enforcement.

### B. Procedure

Field arrests are authorized for Violation of Probation 1203.2 PC, Violation of County Parole 3081 PC, Violation of Home Detention/Electronic Monitoring 628.1 W&I, Violation of Probation from Juvenile Court 777(b) W&I, Flash Incarceration 3455 PC, and pursuant to 836 PC.

If a situation occurs where a law violation has or is occurring in your presence, your safety is most important. Consider the need to immediately affect the arrest, make the arrest at a later time, or seek a warrant.

## ARREST PLAN

### C. Office Arrests

1. A probationer may be arrested at the Probation Department rather than in the field. The arresting officer shall secure a cover officer prior to effect the arrest and shall assess the risk the probationer presents to the office. When possible, isolate the individual from other staff and probationers.
2. Probationers taken into custody shall be handcuffed per department policy.

Arresting officer shall contact Dispatch and advise when affecting an arrest.

### D. Field Arrests



## County of Marin

### MARIN COUNTY PROBATION DEPARTMENT MANUAL

#### **Pre-Planning Field Arrests During Operations with Local Law Enforcement**

Officers can maximize the potential for a safe and successful arrest by thorough pre-arrest planning. When conducting an arrest in the field which requires law enforcement's participation, probation officers should coordinate an arrest plan with the local law enforcement using the following points:

1. The Probation Officer should, if possible, provide a photo and court orders of all probationers being arrested to the officers involved in the arrest.
2. Identify the time and place of the arrest, and a map or diagram of the residence or location if possible.
3. Determine if probationer and/or County parolees or others reside at the location and if they have Search and Seizure or any other conditions that may be helpful.
4. Provide a copy of Conditions of Probation and any special needs / or circumstances involving the probationer i.e.; history of violence, medical or mental illness, animal control, or need for Child and Family Services.
5. Ask local law enforcement about any previous contacts at the residence.
6. Always conduct a briefing and know the responsibilities of all taking part in the arrest.

#### **Effecting Field Arrests**

1. Upon arrival at the arrest site, officers will assume positions and responsibilities agreed upon at the operational briefing.
2. Once entry is made, and it is safe, the probationer who is the target of the arrest shall be immediately identified, handcuffed, and removed to a safe location.
3. If others are present at the arrest site, an assessment should be made of the threat level presented and appropriate safety measures taken.



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**F. Post Arrest and Debriefing**

1. Upon completion of the arrest operation and when circumstances allow, all involved agencies should participate in a debriefing to discuss problems or issues related to the operation.
2. It is recommended that staff debrief their Supervisor or lead staff upon completion of search/arrest and are encouraged to share this debriefing with others in the Division for training purposes.



**MARIN COUNTY PROBATION DEPARTMENT MANUAL**

**IX. Operational**

**C. Policy Statement on Handcuffing**

***Effective Date: 01/02/2007***

***Review Date: 01/30/2015***

***Amended Date: 02/05/2010***

***Amended Date: 06/04/2018***

***Approved: Michael Daly***

***Prepared By: Michael Daly***

***Amended By: Mariano Zamudio***

***Amended By: Mariano Zamudio***

**General Policy**

Handcuffs are a temporary restraining device to be used for placing a person into custody, transporting someone in custody, or temporarily detaining subjects for reasons of safety. Handcuffs can only be used by staff that have successfully passed P.C. 832 and are current in the Department's Weaponless Defense training program and field certified.

**Procedure:**

Only department issued or approved handcuffs shall be used. Handcuffs shall not be used as a threat or punishment. When persons are restrained with handcuffs, their safety is the responsibility of the person deploying the handcuffs. Handcuffs can present a danger both to the arrestee and the person applying them. Staff should be trained in the proper use of handcuffs before using them. When handcuffs are applied, officers shall check for tightness, double lock the cuffs, and check for pre-existing injuries.

When using handcuffs, the following guidelines shall be considered:

1. The emotional and physical state of the person in custody.
2. The potential for resistance by the person under arrest or for interference by other people present.
3. The availability of assistance from other department employees and law enforcement.



**MARIN COUNTY PROBATION DEPARTMENT MANUAL**

**IX. Operational**

**D. Policy Statement on Search & Seizure**

***Effective Date: 01/02/2007***

***Review Date: 01/30/2015***

***Amended Date: 02/05/2010***

***Amended Date: 03/30/2012***

***Amended Date: 06/30/2014***

***Amended Date: 06/04/2018***

***Approved: Michael Daly***

***Prepared By: Michael Daly***

***Amended By: Mariano Zamudio***

***Amended By: Mariano Zamudio***

***Amended By: Alisha Krupinsky***

***Amended By: Mariano Zamudio***

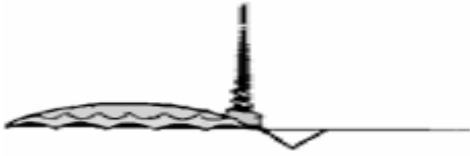
Searches are part of supervision for probationers who have court ordered search and seizure. As peace officers under section 830.5 PC, probation officers are authorized to conduct probation searches pursuant to a lawful court order. All searches will be done with the intent to ensure compliance with probation conditions as well as compliance with the law.

**Procedure**

In conducting searches, officer safety is the top priority. If during a search an officer becomes concerned about their safety the Officer should consider terminating the search.

**A. Procedure for a Residential Search**

1. Verify the status of the case, legal address of record and confirm the search and seizure order and any limitations.
2. If it is determined that a particular search presents an unusually serious safety concern, officers should consider contacting local law enforcement and making arrangements to have their assistance for that search.
3. Specify special problems officers might encounter during the course of the search operation, such as the possibility of weapons and / or violence.
4. Bring all department provided safety equipment with you to conduct a search. If you do not have the proper equipment, you shall not do the search.
5. Exercise good judgment and respect for the occupants and personal property at all times.



## County of Marin

### MARIN COUNTY PROBATION DEPARTMENT MANUAL

6. Evidence and contraband seized related to a new law violation, shall be referred to the local law enforcement agency. Evidence / contraband seized as a result of a violation of probation shall be retained and booked into evidence by probation staff.

7. After conducting any search, enter case notes.

#### B. Procedure for a Planned Search during an Multi-Agency Operation

All probation initiated multi-agency operational searches shall have prior Supervisor approval. In addition to the above, the following procedures shall be followed.

1. Have a copy of the Court Orders and picture of the probationer when initiating /conducting the search.
2. Probation Officers are encouraged to debrief with law enforcement after the search as well as with their Supervisor or lead staff.
3. Provide law enforcement with all pertinent information if possible; including but not limited to, the floor plan, exits, occupants in the home, history of weapons or violence, etc.



**MARIN COUNTY PROBATION DEPARTMENT MANUAL**

**IX. Operational**

**E. Policy Statement on Transportation of Probationers in the Field**

<i>Effective Date:</i>	<i>8/29/2008</i>	<i>Approved:</i>	<i>Michael Daly</i>
<i>Review Date:</i>	<i>01/02/2009</i>	<i>Prepared by:</i>	<i>Michael Daly</i>
<i>Amended Date:</i>	<i>06/05/2011</i>	<i>Amended By:</i>	<i>Mariano Zamudio</i>
<i>Amended Date:</i>	<i>06/30/2014</i>	<i>Amended By:</i>	<i>Alisha Krupinsky</i>
<i>Amended Date:</i>	<i>06/04/2018</i>	<i>Amended By:</i>	<i>Mariano Zamudio</i>

**General Policy**

The policy on transporting probationers in the field should be done by trained staff who have completed PC 832 training. Probation Officers may contact Law Enforcement to provide transportation if a probationer is out of control, a danger to themselves or others or a juvenile being tried as an adult.

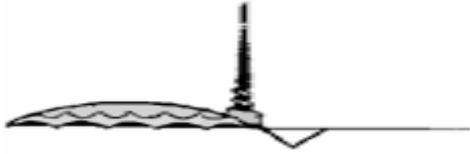
Pursuant to W&I Code Section 210.6, the Probation Department must document reasons why restraints beyond handcuffs are necessary when transporting a minor detainee to or from a juvenile custody facility. In order to ensure the safety of both the detainee being transported and the staff conducting the transportation, a leather waist belt that places the detainee's hands in front of their body shall be used in conjunction with the handcuffs for all such events. The Probation Department has established that using the leather waist belt which places the youth's hands in front of their body is in the best interest of the youth and staff for the following reasons:

- It maintains an appropriate level of security for transporting staff.
- It provides the youth with an increased level of physical comfort for the potentially extended period of the transport as opposed to being handcuffed behind their back.
- Youth restrained in this position are more able to participate in medical evaluations without needing to have restraints removed which could decrease the level of security for transporting staff.
- It provides for a level of concealment of the youth's detained status when being transported into public spaces (hospital, dental office, psychiatric/psychologist appointment) as opposed to being handcuffed behind the back.

**Procedure**

- A. When an Officer transports a probationer, they should follow these guidelines:**





## County of Marin

### MARIN COUNTY PROBATION DEPARTMENT MANUAL

1. Sheriff's Communications shall be advised of the transport, using proper radio protocols, which include:
  - a. Their current location, destination, the gender of the probationer and their custody status and starting mileage.
  - b. Upon reaching the destination, the Officer shall advise Dispatch of arrival at destination and ending mileage.
2. Whenever possible transports should take place in a caged car.
3. Whenever possible, transports should be done with two probation officers.
4. Whenever possible an officer of the same gender should accompany the probationer.
5. No personal stops shall be made while transporting a probationer.
6. In-custody adult probationers are to be handcuffed behind the back and placed in the rear seat of the vehicle opposite the driver's side. Exceptions, as noted above, can be made for juvenile transports who may be secured by a waist belt and handcuffed in front.

The use of leg shackles or any other restraint devices more restrictive than handcuffs and the leather waist belt will be allowed only under the following circumstances:

- The detainee has a prior history of assaulting law enforcement and/or attempts to flee while under a form of detention (either arrest or detention in a secure facility) or while in a placement facility.
- The nature of the charge involves a violent offense.
- The Probation Department has specific information indicating reasonable concern of an attempt to flee or cause harm.

\*\*If restraints beyond handcuffs are determined to be appropriate under this policy, a chrono entry that provides the basis for this decision will be made in the probation database. \*\*

7. Always use the seat belt to secure the probationer. Prior to leaving for a transportation duty, Officers shall conduct a routine check of the car for any contraband before putting the probationer in the vehicle. Once the transport is completed and the Probationer removed from the vehicle, another check of the vehicle for contraband shall be done.
8. In a caged vehicle, a P.O. shall not be in the backseat with the arrestee. In an uncaged vehicle, the second Probation Officer assisting with the transport shall sit in the back seat behind the driver. Any modification to this procedure shall require Supervisory approval.



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9. Never leave a probationer unattended in the vehicle.
  10. Never transport in-custody probationers in your private vehicle.
  11. In the event that a probation officers are transporting minors from Juvenile Hall to a medical, dental, or any other outside appointments, the minors are to remain restrained pursuant to policy at all times unless medically contraindicated as determined by attending medical professionals. Additionally, at least one deputized department staff member of the same sex will remain physically with the minor at all times unless medically contraindicated by the attending medical professionals.
  12. In the event that Department staff must transport a minor in custody to an airport, it is imperative that airport law enforcement be notified in advance of the transport, and that their procedures and requirements be confirmed each and every time just before a transport is to be conducted. Regardless of the distance of the transport, the preferred method of transportation is by vehicle. Due to the significant liability incurred in this event, the decision to use of some other form of transport (such as flying) with a detained minor must be approved in advance by a Division Director, the Chief Deputy or the Chief.
  13. Transportation of an out of custody probationer should be done in rare circumstances. Although handcuffs are not required in this situation, the probationer must sit in the rear seat opposite the driver's side. Consideration should also be given to advice Sherriff's Communications of the transport.
- B. Preparation of a defendant who is a minor to be transported:**
1. Defendant/minor is to be pat searched by transporting staff.
  2. Restraints are to be applied by the transporting staff. The defendant's hands are to be handcuffed in front and connected to a leather restraint waist belt. Leg restraints shall only be utilized as outlined above—in compliance with W&I Code Section 210.6.
  3. Restraint equipment is not to be removed during transit and while the defendant is in the transporting staff's physical custody. **EXCEPTION:** Restraint equipment may be removed for medical examination or treatment, if it impedes medical treatment, but the transporting staff must remain in the immediate physical proximity of the minor.
  4. Transporting staff are to obtain all documentation needed for court or hospital visits.
  5. The defendant/minor is to be placed in the right back seat of the screened vehicle with his or her seat belt fastened. The vehicle doors are to be locked.

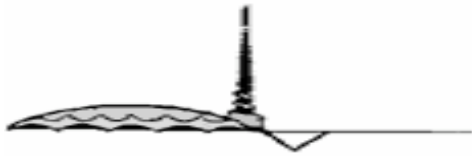


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- C. Any accident that occurs during a transportation Call COM Center immediately. They will call the local jurisdiction or CHP. Once the local jurisdiction or CHP arrive let them know you work for the county, and you need a police report as this will be helpful later as County Counsel will request all the pertinent information regarding the accident.

In the glove compartment, you will find the Accident Report Kit manila envelope which contains three items (Accident Report Form, Driver's ID Card and Witness Card). Make sure to fill out all the forms. (make three copies one for the police department, one for County Counsel and one for our department)



**MARIN COUNTY PROBATION DEPARTMENT MANUAL**

**IX Operational**

**F. Policy Statement on Chemical Agent: Oleoresin Capsicum  
“OC”**

*Effective Date: 03/30/2009*

*Review Date: 01/30/2015*

*Amended Date: 02/05/2010*

*Amended Date: 08/03/2011*

*Amended Date: 06/04/2018*

*Approved: Michael Daly*

*Prepared By: Michael Daly*

*Amended By: Mariano Zamudio*

*Amended By: Mariano Zamudio*

*Amended By: Mariano Zamudio*

**General Policy:**

The following policy and procedures sets forth the Marin County Probation Department's guidelines governing the use of the chemical agent Oleoresin Capsicum (OC) by POST certified Officers.

California Penal Code Section 22820: Nothing in this chapter shall prohibit any person, as a peace officer defined under Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, from purchasing, possessing, transporting, or using any tear gas or tear gas weapon if the person has satisfactorily completed a course of instruction approved by the Commission on Peace Officer Standards and Training in the use of Chemical Agents.

The Marin County Probation Department authorizes the use of department issued Oleoresin Capsicum “OC” to trained probation officers.

**Definition:**

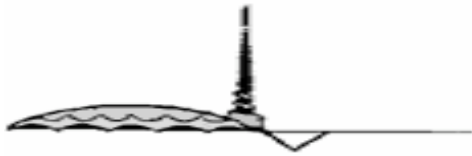
I. Approved Chemical Agent

The approved chemical agent for use by the Marin County Probation Department is Oleoresin Capsicum, also known as OC.

**Procedures:**

II. Authorized Use

- A. OC a defensive instrument and may only be used by officers who have successfully completed authorized training through the Marin County Probation Department.
- B. All probation officers who are in the field shall carry OC on their person, immediately accessible for use. Probation officers in their office setting may carry OC on their person at their discretion. All Probation Officers who are transporting in-custody subjects shall carry OC on their person.



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- C. OC is not to be carried while inside the Juvenile Hall. Juvenile Correctional Officers may carry OC when outside the facility and actively involved in the transportation of in-custody minors under their supervision.
- D. OC can be used in those situations where a threat of injury exists, and/or the officer's safety is compromised. Once a subject has been subdued and is under control, or handcuffed, OC shall not be deployed.
- E. Expired OC is not to be used and will be returned to the Departmental designee for exchange.

### III. Decontamination

- A. First aid is to be rendered to a subject who is exposed to a OC as soon as it is safe to do so.
  - 1. Remove exposed person from the contaminated area to an open and well-ventilated area.
  - 2. Flush affected area with cool water.
  - 3. A medical evaluation shall be obtained each time a subject is exposed. (i.e. Medical clearance at a hospital, EMT/Paramedic Evaluation, Nursing Staff)
- B. When booking a probationer to whom OC has been applied, notify the receiving agency.

### IV. Reporting and Investigation

Thorough, accurate and timely reporting of every incident involving the use of OC is required. A Use of Force Options report shall be submitted. Within 24 hours of the incident. All staff present during the incident shall provide supplemental reports as well. A thorough investigation/debriefing into the incident by a supervisor shall be initiated immediately and concluded as soon as possible after the incident.

# MARIN COUNTY PROBATION DEPARTMENT MANUAL

## IX. Operational

### G. Policy Statement on Use of Force

*Effective Date: 04/26/22*

*Prepared By: Terry Wright      Approved by: Marlon J. Washington*

#### General Policy

##### I. Principle

The Marin County Probation Department recognizes and respects the value of all human life and the need to ensure its staff are appropriately trained and guided on how to defuse potentially volatile situations. The powers and authority granted to peace officers by the State of California to use force, when appropriate, represents a great responsibility and such authority will be exercised with care and professionalism. Marin County Probation Department's preferred method of resolving conflict and maintaining safety and security for staff, clients, or other persons is through the application of de-escalation and crisis intervention techniques.

However, in circumstances where force is the most reasonable option, it is the expectation of Marin County Probation Department that the level of force used will be based directly upon the level of resistance exhibited by a subject or client and will escalate and/or de-escalate in relation to the level of resistance. While the amount or type of reasonable force to be applied in each situation is dependent on the circumstances, sworn staff are expected to use the guidelines contained within this policy as well as Marin County Probation Department approved training to guide their decisions in a professional, impartial, and reasonable manner.

##### II. Definitions

**Carotid Hold (Prohibited):** A vascular neck restraint or any similar restraint, hold, or other defensive tactics in which pressure is applied to the sides of a person's neck that involves a substantial risk of restricting blood flow and may render the person unconscious to subdue or control the person.

**Choke Hold (Prohibited):** Any defensive tactic or force option in which direct pressure is applied to a person's trachea or windpipe.

**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.

**Excessive Force:** The use of force greater than that which is objectively reasonable to accomplish a lawful purpose.

**Imminent threat of death or serious bodily injury:** Any situation based on the totality of the circumstances, that 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 peace officer or another person. An imminent harm is not merely a fear of future harm, no matter how great the fear and no matter how great the likelihood of the harm, but is one that, from appearances, must be instantly confronted and addressed.

**Oleoresin Capsicum (OC):** The technical name for the chemical restraint spray

utilized by the MCPD.

**Reasonable Force:** The force that an objective, trained, and competent officer, found with similar circumstances, would consider necessary and reasonable to gain compliance or defend oneself.

**Totality of the circumstances:** Pursuant to Penal Code section 835(a) means 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.

### III. Authority to Use Force

California Penal Code section 835a(b) provides that, "any peace officer who has reasonable cause to believe that the person to be arrested has committed a public offense may use objectively reasonable force to effect the arrest, to prevent escape, or to overcome resistance."

Notwithstanding, "...a peace officer is justified in using deadly force upon another person only when the officer reasonably believes, based on the totality of the circumstances, that such force is necessary for either of the following reasons:

- (A) To defend against an imminent threat of death or serious bodily injury to the officer or to another person; or
- (B) 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, a peace 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.

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

A peace officer who makes or attempts to make an arrest need not retreat or desist from their efforts by reason of the resistance or threatened resistance of the person being arrested. A peace officer shall not be deemed an aggressor or lose the right to self-defense by the use of objectively reasonable force...to effect the arrest or to prevent escape or to overcome resistance."

### IV. Policy

Officers must accomplish probation functions while acting in their official capacity with minimal reliance on the use of force. Prior to using any force options, officers must use de-escalation techniques, crisis intervention tactics, and other alternatives to the use of force when feasible and safe to do so. Officers must consider such tactics and techniques to persuade the subject to voluntarily comply or mitigate the need to use a higher level within the use of force continuum to resolve the situation when safe to do so.

Officers must use only that force which is objectively reasonable given the facts and circumstances known at the time of the event, to protect themselves or others, to overcome resistance to their lawful authority, or to effectively bring an incident under control. Officers may only use a level of force that is reasonably proportional to the seriousness of the suspected offense or the reasonably perceived level of actual or threatened resistance and must not use unnecessary or excessive force. If any use of force is needed, it must be carried out in a manner that is fair and unbiased.

Choke and carotid holds or any other physical restraint which impairs swallowing, breathing, or blood flow is prohibited.

Officers must terminate any physical use of force if they determine the situation can be resolved without the continued use of physical force.

Medical attention must be offered and/or provided to any subject who sustains any injury or loss of consciousness resulting from an officer's use of force.

All physical use of force incidents must be documented and reported to the Assistant Chief Probation Officer through the chain of command. All staff who witness a physical use of force incident are also required to document and report the incident as indicated above. Situations involving the searching or escorting of a subject who is not resisting, non-physical force options (e.g., verbal commands, officer presence, show of numbers) and the application of authorized restraint equipment without resistance, are not considered a use of force.

All excessive or unnecessary use of force incidents or allegations will be investigated. Marin County Probation Department is responsible for conducting an internal departmental investigation, which will be a thorough investigation to determine if there were any violations of policy, procedures, or training. After conferring with legal and/or union representation (if desired), all involved staff must cooperate with the internal investigation.

Marin County Probation Department will not tolerate any form of silence as it pertains to reporting unnecessary or excessive use of force and will not tolerate any form of reprisal or retaliation against staff who report unnecessary or excessive use of force. Any staff, regardless of rank, who fails to report unnecessary or excessive use of force or who acts in a manner that fosters a code of silence, may be subject to corrective or disciplinary action, up to and including termination.

## **V. Procedures**

### **Use of Force**

Whenever possible and appropriate, officers should use de-escalation techniques before resorting to use of force. The subject of the potential use of force, should be given time and opportunity to submit to verbal persuasion or orders prior to resorting to force if feasible and safe to do so.

If feasible and safe to do so, officers may also consider, but are not required to, withdraw from the situation, either to de-escalate the situation or secure additional resources (e.g., additional staff, law enforcement, mental health professionals, etc.). Officers must use their training and experience in determining the use of force option that is justified in responding to a threat or situation.

Use of force options do not have to be utilized in any sequence, but the decision on which force option(s) to use must be based on the "Objectively Reasonable" standard, as defined in *Graham v. Connor*, 490 U.S. 368 (1989), given the circumstances presented to the officers. Officers must continuously reassess the situation to determine if the chosen force option, based on any known factors, is still reasonable and necessary and may, at any time, change force options or



escalate/de-escalate the level of force used in relation to the level of resistance exhibited. Such factors may include but are not limited to those contained in the Factors Used to Determine Reasonableness of Force section of this policy.

The force options listed below are restricted to those officers that have met the department training standards and are authorized. The force continuum model as adopted by the Probation Department is the force wheel as shown below. Not all options of the force continuum must be attempted first prior to using a higher level of force. Officers shall use the "reasonableness standard" when using force.

The following criteria outline when force is authorized:

- To defend oneself or others from harm when an officer reasonably believe there is an imminent threat of death or serious bodily injury.
- To stop a fleeing subject when the officer has probable cause to believe that the subject committed, or intends to commit, a felony involving the infliction or threatened infliction of serious bodily injury or death, and the officer reasonably believes that there is an imminent risk of serious bodily injury or death to any other person if the subject is not immediately apprehended.
- To effect a lawful arrest, to prevent escape, prevent the destruction of evidence, to gain compliance with a lawful directive/command issued by the sworn staff, or overcome resistance.

Upon considering the factors of the situation, officers are authorized to use the following non-physical and physical force options. Note: Reference the Force Wheel at the end of this policy for a visual guide on intervention options.

### **Officer Presence**

- A. Command presence. This may include one or more officer.

### **Vocal Directives**

- A. Dialogue or non-verbal communication
- B. Directive language such as verbal commands
- C. De-escalation/ negotiation

### **Physical Contact**

- A. Placing hand on shoulder, arm, etc.

### **Physical Control**

- A. Department authorized pain compliance, control holds, come-alongs, joint locks, handcuffing/physical restraints
- B. Note: A chokehold, carotid hold, hogtie, or any other physical restraint which impairs swallowing, breathing, or blood flow must not be used. Such techniques may lead to positional asphyxia, serious bodily injury, or death. Further, such techniques are prohibited by law under Government Code section 7286.5. Officers must use this policy and use of force training to assist them in identifying what tactics are prohibited.

### **Intermediate Force**

- A. Takedowns
- B. Distractions
- C. Chemical Agents (OC) Chemical agents can be used in those situations where a threat of injury exists and/or the sworn staff's safety is compromised.
- D. Baton
- E. Personal Body Weapons – Striking, i.e., with hands, feet, elbows, knees, etc.

### **Deadly Force**

- A. The use of a firearm is expressly considered deadly force.
- B. Other force might also be considered deadly force if the force applied creates a substantial risk of causing death or serious bodily injury. Use of deadly force is justified if the officer reasonably believes, based on the totality of the circumstances that such force is necessary for either of the following reasons:
  - 1) To defend against an imminent threat of death or serious bodily injury to the officer or to another person.
  - 2) 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, an 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.

Note: This policy is not intended to conflict with any applicable law that may relate to an officer's right to self-defense. Instances of self-defense will be evaluated on a case-by-case basis.

Before contemplating any use of physical force, the officer shall first consider other options such as de-escalation techniques, crisis intervention tactics, withdrawing from the situation and securing assistance from additional Probation Officers and/or other law enforcement partners as appropriate to ensure the safety of all. Probation Officers/Juvenile Correction Officers (JCOs) are not permitted to use any force option in which they have not been trained to engage.

The following areas are some examples of factors that shall be considered:

- Relative size and strength of the officer and suspect.
- Training and experience level of the officer.
- Criminal sophistication of the suspect.
- If and how the suspect is armed.
- Number of officers compared to suspects.
- Physical surroundings.
- Department issued equipment available to the officer.
- Influence of drugs, alcohol, or mental capacity of suspect.
- Potential of injury to citizens, officers, and suspects.
- Other exigent circumstances.

Notwithstanding 835(a) PC, the policy of the Marin County Probation Department is to use physical interventions only when appropriate training (such as 832 PC,

Weaponless Defense, etc.) has been completed and for the purposes of self-protection, the protection of others, to affect lawful arrests, to prevent escape, and to overcome resistance.

#### **A. Unnecessary or Excessive Use of Force**

Any officer who observes another peace officer or Marin County Probation staff use force that is clearly beyond that which is objectively reasonable under the circumstances must, if in a position to do so, attempt to stop the action, taking into account the possibility that other officers may have additional information regarding the threat posed by a subject. An attempt to stop such use of force may be made verbally or by application of force, provided that such application of force will not create a substantial risk of death or serious bodily injury. If necessary, officers may contact local law enforcement for assistance. Officers must verbally report the incident to their supervisor when safe to do so.

Any staff who witnesses, or has knowledge of, excessive or unnecessary use of force must immediately and verbally report the incident or allegation to a supervisor. The staff must follow up their verbal report to their supervisor with a written Incident Report, as noted in the Use of Force Reporting section, no later than the end of the shift.

Staff who witness unnecessary or excessive use of force conducted by non-Marin County Probation peace officers must also report the incident to a supervisor verbally and in writing.

The Marin County Probation Department will not tolerate any form of silence as it pertains to reporting unnecessary or excessive use of force and will not tolerate any form of reprisal or retaliation against staff who report unnecessary or excessive use of force. Any staff, regardless of rank, who fails to report unnecessary or excessive use of force or who acts in a manner that fosters a code of silence, may be subject to corrective or disciplinary action, up to and including termination of service.

#### **B. Medical Attention for Injuries Sustained While Using Force**

Prior to booking or the release of a suspect, medical assistance shall be obtained for any person who has sustained visible injury, expressed a complaint of injury or continuing pain, or who has been rendered unconscious. Based upon the officer's initial assessment of the nature and extent of the subject's injuries, medical assistance may consist of examination by fire personnel, paramedics, hospital staff, or medical staff at the Juvenile Hall or Jail. If any such individual refuses medical attention, such a refusal shall be fully documented in related incident reports and whenever practical, should be witnessed by another officer and/or medical personnel.

#### **C. Use of Force Reporting**

Any use of physical force, other than the intentional discharge of a firearm that strikes a suspect,<sup>1</sup> by a member of this department, shall be documented completely and accurately by the end of shift and delivered to the officer's supervisor for investigation and debriefing as soon as possible.

Elements of the report are to include:

1. Reason for the officer's intervention
2. Suspect's actions and statements prior to the use of physical force
3. Type of resistance exhibited by the suspect
4. All types of force needed to overcome resistance
5. Any injuries observed
6. Whether medical treatment was requested and by whom
7. Witness statements
8. Whether any evidence was collected, such as photos, hospital discharge paperwork, etc.

After any physical confrontation with a person, and a report has been written, the officer shall debrief the incident with their supervisor and director as soon as possible. In addition, the officer shall debrief the incident with a weaponless defense instructor.

Officers or staff who witness a physical use of force incident are also required to document and report the incident as indicated above. Situations involving the searching or escorting of a subject who is not resisting, non-physical force options (e.g., verbal commands, officer presence, show of numbers), and the application of authorized restraint equipment without resistance, are not considered a use of force. All excessive or unnecessary use of force incidents or allegations will be investigated.

#### **D. Administrative Review**

Each use of force incident must be evaluated by the supervisor and management to determine if the force used was both appropriate and lawful under applicable laws, regulations, policies, procedures, and training.

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<sup>1</sup> Please note, that any discharge of a firearm is required to be reported immediately to the Assistant Chief Probation Officer, and to local law enforcement in whose jurisdiction the incident occurs, pursuant to the Firearms Policy.

# FORCE WHEEL



### **Officer Presence**

- A. Command presence. This may include one or more officers

### **Vocal Directives**

- A. Dialogue or non-verbal communication
- B. Directive language such as verbal commands
- C. Negotiation

### **Physical Contact**

- A. Placing hand on shoulder, arm, etc

### **Physical Control**

- A. Department authorized pain compliance, control holds, come-alongs, joint locks, handcuffing/physical restraints

### **Intermediate Force**

- A. Takedowns
- B. Distractions
- C. Chemical Agents (OC) Chemical agents can be used in those situations where a threat of injury exists and/or the officer's safety is compromised.
- D. Baton
- E. Personal Body Weapons - Striking i.e., with hands, feet, elbows, knees etc.

### **Lethal Force**

- A. The use of a firearm is expressly considered lethal force.
- B. Other force might also be considered lethal force if the force applied will reasonably create a substantial likelihood of causing death or very serious injury. Use of lethal force is justified in the following circumstances:
  - 1) An officer may use deadly force to protect themselves or others from what the officer reasonably believes would be an imminent threat of death or very serious bodily injury.
  - 2) An officer may use deadly force to stop a fleeing suspect when the officer has probable cause to believe that the suspect has committed, or intends to commit, a felony involving the infliction or threatened infliction of serious bodily injury or death, and the officer reasonably believes there is an imminent or future potential risk of serious bodily injury or death to any other person if the suspect is not immediately apprehended. Under such circumstances, a verbal warning should precede the use of lethal force, when feasible.

***Any use of physical force, other than the intentional discharge of a firearm that strikes a suspect, by a member of this department, shall be documented completely and accurately by the end of shift and delivered to the officer's supervisor for investigation and debriefing as soon as possible.***

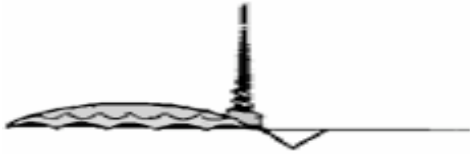
Elements of the report are to include:

1. Reason for the officer's intervention
2. Suspect's actions and statements prior to the use of physical force
3. Type of resistance exhibited by the suspect
4. All types of force needed to overcome resistance
5. Any injuries observed
6. Whether medical treatment was requested and by whom
7. Witness statements
8. Whether any evidence was collected such as photos, hospital discharge paperwork, etc.

***After any physical confrontation with a person and a report has been written, the officer shall debrief the incident with their supervisor and director as soon as possible. In addition, the officer shall debrief the incident with a weaponless defense instructor.***

C. Medical Attention for Injuries Sustained While Using Force

Prior to booking or the release of a suspect, medical assistance shall be obtained for any person who has sustained visible injury, expressed a complaint of injury or continuing pain, or who has been rendered unconscious. Based upon the officer's initial assessment of the nature and extent of the subject's injuries, medical assistance may consist of examination by fire personnel, paramedics, hospital staff, or medical staff at the Juvenile Hall or Jail. If any such individual refuses medical attention, such a refusal shall be fully documented in related incident reports and whenever practical, should be witnessed by another officer and/or medical personnel.



**MARIN COUNTY PROBATION DEPARTMENT MANUAL**

**IX. Operational**

**H. Policy Statement on Threats/Danger to Employees and Others**

***Effective Date: 01/02/2007***

***Approved: Michael Daly***

***Review Date: 01/30/2015***

***Prepared By: Michael Daly***

***Review Date: 06/04/2018***

***Reviewed By: Mariano Zamudio***

**General Policy**

The Probation Department is committed to maintaining a workplace free from occupational injuries and illnesses.

- A. Maintaining employee safety is a high priority of the Probation Department. It should be clearly understood that employees are not expected, during the performance of their duties, to place themselves in any situation which presents an unreasonable degree of danger to their lives or health.
- B. Employees shall utilize methods to minimize, avoid or reduce 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.
- C. Employees shall notify their immediate supervisor if, as a result of employment with the Probation Department, the employee is assaulted, injured, attacked or threatened, or any member of the employee's family is assaulted, injured, attacked or threatened. Should such an incident occur, every effort shall be made to prevent further or prolonged attack or injury. All 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.
- D. When any employee in the course of his/her duties becomes aware of a threat against the life, safety or property of others, or of a threat being made by a ward or probationer against another, that person shall immediately report the information to their direct supervisor.
- E. When any Probation Officer or JCO becomes aware of such a threat, any potential victim shall be given immediate and adequate notice of the impending danger.





**MARIN COUNTY PROBATION DEPARTMENT MANUAL**

**IX. Operational**

**I. Firearms Policy**

*Effective Date: 01/02/2007*

*Review Date: 01/30/2015*

*Amended Date: 06/27/2011*

*Review Date: 06/04/2018*

*Amended Date: 07/13/2021*

*Approved by: Chief Marlon Washington*

*Approved: Michael Daly*

*Prepared By: Michael Daly*

*Amended By: Mariano Zamudio*

*Reviewed By: Mariano Zamudio*

*Amended By: Mariano Zamudio*

**A. AUTHORITY FOR POLICY**

- i. California Penal Code and case law decisions
- ii. Chief Probation Officer
- iii. California Attorney General Opinion

**B. PURPOSE**

- i. To establish policies and procedures for the on-duty possession and use of firearms by authorized department staff.

**C. GENERAL PROVISIONS REGARDING THE FIREARMS POLICY**

- a. A firearm shall be considered a defensive weapon when carried by authorized department staff.
- b. If and when it becomes necessary to resort to the use of a firearm, the two primary concerns shall be the safety of the officer(s) and the safety of others.
  - i. Officer Safety: The department issued firearm is issued for defensive purposes. The fact that an officer may be armed shall not be the primary determination of whether or not the officer responds to a given situation or whether the officer should remain at the scene of a potentially dangerous situation. If there is a reasonable belief that death or serious injury to an officer or another person is imminent, and if the officer believes immediate action must be taken to reduce or eliminate that danger, it is the officer's responsibility to take appropriate action within the scope of the officer's ability and training.
  - ii. Such decisions and actions in response to field conditions are



## MARIN COUNTY PROBATION DEPARTMENT MANUAL

- i. the responsibility of the officer involved. It is expected that the officer will not hesitate to act appropriately, when hesitation would result in death or serious injury to the officer or another person.
- iii. Public Safety: The need for the preservation of public safety compels officers to exercise extreme caution in the use of firearms. When firearms are used, the potential for injury or death to bystanders is always present. If a clear and present danger to another person or to the officer does not exist, other means than the use of the firearm, including apprehension at a later time, shall become the preferred action.

c. Ownership of Department issued Firearm/Ammunition:

Officers authorized to be armed on duty shall only carry a department-issued firearm(s) and ammunition, unless expressly approved in writing by the Chief Probation Officer under specific terms and conditions. Those firearms are identified as Glock, semi-automatics, models 22, 23, 27, and 43. Department issued firearm(s) and ammunition are the property of the department and must be surrendered upon demand to the Chief Probation Officer or his/her designee pursuant to "Relinquishment of Firearm" section of this policy. The Chief Probation Officer or Rangemaster may authorize an alternate make and model of firearm.

d. Definition of Terms: Unless otherwise indicated, the following terms used in this policy shall have the following meanings:

- i. "Department" means the Marin County Probation Department.
- ii. "Firearm" means any weapon or other instrument capable of propelling a projectile through the use of gunpowder or other similar explosive material.
- iii. "Officer" means sworn peace officer personnel who are employed by the department in the classifications of Deputy Probation Officer, Probation Supervisor, and Director of Probation Services.
- iv. "On-Duty" means during scheduled working hours or when called back for a work-related situation by the Chief Probation Officer or designee.
- v. "Reasonable Cause" refers to the set of circumstances the officer is confronted with at the time the decision to use lethal force is made and that any reasonable officer would conclude that level of force was appropriate.
- vi. "Imminent Danger" means the threat of death or serious physical injury is immediate and unequivocal.



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- vii. “Serious Physical Injury” means a bodily injury that creates a substantial risk of death; causes serious, permanent disfigurement; or results in long-term loss or impairment of the functioning of any body part.

#### D. GENERAL AUTHORITY OF AUTHORIZED DEPARTMENT STAFF TO BE ARMED

##### a. The Difference Between “Status” and “Authority”

- i. Status: Penal Code 830.5 states that probation officers are peace officers, thus a probation officer always has the status of a peace officer.
- ii. Authority: Probation officers may only exercise the authority of peace officers “while engaged in the performance of the duties of their respective employment and for the purpose of carrying out the primary function of their employment...” (Emphasis added).

Penal Code 830.5 reads as follows:

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

“(a)A parole officer of the Department of Corrections or the Department of the Youth Authority, probation officer, or deputy probation officer, or a board coordinating parole agent employed by the Youthful Offender Parole Board. 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 or of probation by any person in this state on parole or probation.
2. To the escape of any inmate or ward from a state or local institution.
3. To the transportation of such persons on parole or probation.



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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.

“(b) ...any superintendent, supervisor, or employee having custodial responsibilities in an institution operated by a probation department, or any transportation officer of a probation department.”

“(d) Persons permitted to carry firearms pursuant to this section, either on or off duty, shall meet the training requirements of Penal Code Section 832 and shall qualify with the firearm at least quarterly. It is the responsibility of the individual officer to maintain his or her eligibility to carry concealable firearms off-duty.”

- b. Authority to Carry a Concealed Firearm Off-Duty
  - i. The Attorney General of the State of California has rendered opinions that probation officers have the legal ability to carry concealed firearms without a permit while off-duty by virtue of their status of peace officers.
  - ii. The Chief Probation Officer cannot prohibit an off-duty probation officer from carrying a concealed firearm. (72 Op. Atty. Gen. 176)
  - iii. Probation Officers have the status of peace officers at all times and therefore fall within Penal Code 25450 and can carry concealed weapons without a permit while off-duty. (72 Op. Atty. Gen 176)
  - iv. It is the position of the County of Marin and the Chief Probation Officer that the decision to carry a concealed weapon off duty is solely that of the officer and is done without authority or approval of the County. The County of Marin will provide neither a legal defense nor indemnification for any claim arising from such off-duty use. The County will not assume responsibility for training the officers who wish to carry a concealed weapon off-duty.
  - v. Officers authorized by the Department to be armed while on duty may carry their department issued equipment including firearms and ammunition while off duty.



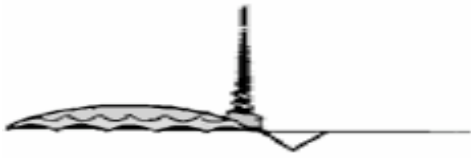
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- c. Authorization to Carry a Firearm On Duty
  - i. Without the prior and specific written authorization of the Chief Probation Officer, no employee of the department is permitted to carry any firearm on his/her person, or to have any firearm in the office or job location, or in their vehicle while on official county business. In the absence of the Chief Probation Officer, the Chief Deputy Probation Officer may temporarily authorize the carrying of a firearm; however, this decision will be reviewed by the Chief at the earliest possibility.
  - ii. When authorization is granted for an officer to be armed, the authorization will be in writing and subject to all of the provisions of this policy.

### E. POLICY AND PROCEDURE FOR ASSIGNMENT TO AN ARMED POSITION

- a. Authorization to carry a firearm is not an employee right. Authorization to be armed is at the sole discretion of the Chief Probation Officer and is not subject to appeal. The authorization may be rescinded by the Chief Probation Officer at any time without review or appeal by the officer.
- b. No officer shall be assigned to an armed position involuntarily. Conversely, the Chief Probation Officer shall have the sole and final authority for assignment to armed positions.
- c. Prior to being assigned to an armed position, all of the following prerequisites must be met:
  - i. The officer must request in writing, using the Request for Arming Authorization form, through the chain of command, authorization to carry a firearm on duty. This request will be submitted to the Chief Probation Officer for their approval or denial.
  - ii. The officer must successfully complete all required training, including the 24-hour Penal Code Section 832 Firearms Familiarization course, the 40-hour Force and Weaponry course, a minimum of 12 hours of Shoot/Don't Shoot Scenario training, and 4 hours of Concealed Carry training. Considerations for training equivalency in order to meet these requirements may be granted by the Chief Probation Officer.
  - iii. The officer must meet all training and qualifying requirements with the authorized firearms in accordance with the standards adopted by the Rangemaster designated by the department. Written verification of training and qualifying requirements shall be forwarded to the Chief Probation Officer.



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- iv. The officer must undergo a psychological examination at departmental expense and be recommended for arming by the department's contracted psychologist prior to being approved for arming. This evaluation will only focus on issues related to the arming of the individual and will not be used as a fitness for duty instrument. The psychologist will provide a recommendation for or against arming a particular officer directly to the Chief Probation Officer in a privileged communication. The officer requesting to be armed will not have the right to review any reports or conclusions reached by the psychologist. A second opinion psychological examination or any other form of an appeal to a psychologist recommendation against arming will not be considered.
  - v. The officer must undergo an updated background investigation to determine suitability for arming. This review will focus on the period of time after employment began with the Marin County Probation Department and will not review activities related to any period prior to such employment. The investigation may be conducted by our contracted background investigations firm or by any trained department background investigator. The investigation will be factual in nature and will not include a recommendation for or against arming. The investigation will be reviewed by the Chief Probation Officer who will determine whether the officer is suitable for arming. The officer requesting to be armed will not have the right to review any reports or conclusions relative to the background investigation.
  - vi. The Chief Probation Officer may waive any part of the above requirements in the interest of the department and/or its operations.
- d. Ongoing Arming Requirements
- i. Officers shall adhere to all applicable federal and state laws, ordinances, departmental policies and procedures regarding the carrying and use of firearms. Any officer failing to comply with these regulations and limitations may be subject to the suspension or revocation of approval to carry a firearm, and/or disciplinary action up to and including termination as well as criminal and/or civil action.
  - ii. Failure of an officer to successfully complete a quarterly qualification shoot shall result in the temporary rescission of the official authority to be armed. The officer shall be afforded two opportunities to qualify within 60 days. The qualification shoots shall be administered by a department Rangemaster or Firearms Instructor. If the employee fails to qualify within the 60-day period, the authorization to be armed will be immediately rescinded and the officer's firearm(s), ammunition, and arming related equipment, shall be turned in immediately to the Rangemaster or Firearms Instructor.



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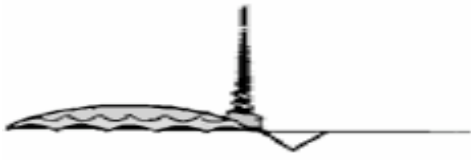
- e. Written request for reinstatement of the authorization to be armed may be made to the Chief Probation Officer by utilizing the same procedures as a request for initial authorization. The decision to reinstate an officer to an armed position is at the sole discretion of the Chief Probation Officer and may not be appealed or grieved.

#### **F. RESTRICTIONS FOR CARRYING FIREARMS:**

- a. Department staff who have been authorized to be armed on duty are restricted from being armed under the following conditions:
  - i. When he/she does not have a current qualification, unless authorized by the Chief Probation Officer for training purposes.
  - ii. When ordered by the Chief Probation Officer or his designee not to carry a firearm.
  - iii. While injured, on light duty, or in a physical or mental condition resulting in an inability to utilize a firearm properly.
  - iv. While in a condition resulting from the use of alcohol or other drugs where the employee's motor skills, reflexes, or judgment could be adversely affected.

#### **G. AUTHORIZED FIREARMS, AMMUNITION AND HOLSTERS**

- a. Only department issued firearms may be carried on duty. Those firearms are identified as Glock, semi-automatic, models 22, 23 and 27. The Glock model 43 is authorized for executive staff only. The Chief Probation Officer or Rangemaster may authorize an alternate make and model of firearm.
- b. Back up firearms are not to be carried on duty; only one primary firearm on the officer's person.
- c. Only ammunition authorized and issued by the department may be used in a department issued firearm. The use of reloaded ammunition
- d. Only holsters authorized and issued by the department may be used on duty, unless expressly approved in writing by the Chief Deputy Probation Officer. The Rangemaster may authorize the use of an alternate holster.
- e. On duty firearms, holsters, ammunition, and ammunition holders are provided by the department, unless an exception has been approved in writing by the Chief Probation Officer. The department will maintain records with a complete description of all the equipment issued, the firearm, its serial number, and the date and to whom it was issued.
- f. Officers are responsible for firearms and all other equipment issued to them.



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Any loss resulting from negligence may require the officer to reimburse the department for the replacement costs of the equipment.

- g. Modifications to all authorized equipment, including firearms, are expressly prohibited. The Rangemaster or Firearms Instructor may authorize such modifications, upon request by officers, and a review of the intended modifications.
- h. Any Deputy Probation Officer is permitted to use another department officer's or other law enforcement officer's firearm in an immediate life-threatening situation while acting under the authority of Penal Code Section 830.5

## H. OTHER REQUIREMENTS

### a. Officer Responsibility

- i. Officers authorized to carry a firearm on-duty shall at a minimum qualify with the firearm quarterly.
- ii. An officer who is armed on duty may, with the Chief Deputy Probation Officer's approval, be authorized to practice during on-duty hours to improve proficiency in the use of a firearm, in addition to the usual qualifying/training sessions. Arrangements will be made for additional firearms practice with the Rangemaster or Firearms Instructor.
- iii. The practice session will be at the department's expense.
- iv. An officer who is armed on-duty may practice with the department issued firearm at a commercial gun range with the department- issued firearm(s) while on his/her own time (off duty) and at the officer's expense. Only ammunition approved by the Rangemaster shall be used; the use of personal reloaded ammunition is prohibited.

### b. Supervisor Responsibility

- i. Upon learning of legislative changes relating to the use of firearms and other related equipment by armed officers under his/her supervision, the supervisor shall ensure that necessary updated training is attended. These training records will be maintained in the employee's departmental training file by the department Training Manager.
- ii. Probation Supervisors who supervise armed officers and who have not requested and been granted armed status, shall attend the 24-hour Penal Code Section 832 Firearms Familiarization course. Probation Supervisors who have been authorized to be armed will have already completed all the necessary trainings as part of that process.





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- c. Rangemaster and Firearms Instructor Responsibility
  - i. The Rangemaster and Firearms Instructor shall not oversee any firearms training until such time as he/she has completed a department approved 80-hour P.O.S.T. approved Firearms Instructor course and is designated by the department to perform such duties.
  - ii. The Rangemaster and Firearms Instructor shall provide appropriate training qualification shoots to all authorized armed officers.
  - iii. The Rangemaster or Firearms Instructor shall prepare and submit a quarterly firearms qualification report to the Chief Probation Officer. Written verification of firearms qualification scores shall be retained by the Rangemaster. The Rangemaster shall provide copies of the qualification report to the Supervisor and Director of Probation Services who provide oversight to the armed officers.
  - iv. The Rangemaster and Firearms Instructor have the authority to take control of a firearm from an officer who fails to achieve a qualifying score and/or exhibits inappropriate behavior while on the range.

#### I. FIREARMS SAFETY AND STORAGE

- a. Persons authorized to carry firearms shall observe and practice the following safety regulations:
  - i. Every firearm shall be treated as a loaded firearm at all times.
  - ii. Firearms shall not be dry fired, cleaned, repaired, exhibited, loaded or unloaded in any manner where an unintentional discharge could cause personal injury.
  - iii. Firearms shall not be carelessly handled at any time.
  - iv. Any unholstered firearm that is brought into a Probation Department facility shall first be unloaded and actions left open. Such weapons will be concealed in a proper carrying case when possible.
  - v. Officers shall not handle or use any firearm, with which they have not qualified, except under the supervision of a certified instructor, when seizing evidence in the field, or when rendering mutual aid pursuant to PC 830.5.
- b. When not being carried or worn, the firearm and ammunition shall be stored in a designated locked and safe place that is not accessible to unauthorized persons.
  - i. Firearms shall not be stored at any time in the employee workstation or office unless secured in a department issued or approved safety storage device.



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- ii. Firearms may not be stored overnight in a county vehicle or private vehicle used on county business.
  - iii. Firearms shall be kept in a locked and safe place while in the officer's residence, where it is inaccessible to other individuals and in compliance with State law.
  - iv. Under NO circumstances shall a firearm, ammunition, and/or other item, which could threaten the security of a correctional facility, be left in any unsecured vehicle or location on institutional grounds. These items may be left in a vehicle that is secured within the sally port area of the detention facility.
- c. Any unintentional discharge of a firearm resulting from a failure to comply with the above regulations shall be considered an act of negligence, and subject to disciplinary action up to and including termination, or revocation of approval to carry a firearm. The involved officer(s) shall submit a written incident report of such unintentional discharge to the Chief Deputy Probation Officer through the chain of command within one (1) working day of the incident. The firearm will be immediately turned in to the Rangemaster for inspection.

#### J. FIREARM CARE AND MAINTENANCE

##### a. Cleaning and Inspection

- i. All cleaning necessary to maintain the firearm in good working order is the responsibility of the officer. Cleaning equipment shall be provided by the department.
- ii. All officers are responsible for completing safety checks and a visual inspection of their firearm under the supervision of the Rangemaster or Firearms Instructor each time the officer qualifies on the range.

##### b. Maintenance

- i. All repairs and servicing of firearms shall be performed by a department approved gunsmith or armorer or under the direction of a designated Rangemaster, except for routine cleaning. Authorized firearms shall be serviced and inspected annually by a qualified gunsmith or certified armorer.
- ii. Any officer whose firearm has been dropped or who has a question regarding the safety condition or proper functioning of the firearm shall have the firearm checked by the Rangemaster or department approved gunsmith or armorer.
- iii. All repairs and/or servicing costs for department issued firearms shall be at the department's expense.



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- iv. Firearms clearing barrels have been mounted at Juvenile services and the Adult division locations. All personnel are required to use a clearing barrel to load and unload all firearms prior to any physical mechanical manipulation of said firearms in either the Juvenile Service building or the Adult Probation building. This includes anytime a firearm is subject to inspection, including cleaning, loading, or performing a function check.

#### K. CARRYING THE FIREARM

- a. While on-duty, the authorized and approved firearm must be in a department authorized holster.
- b. When engaged in any field activity while armed on duty, officers shall display on their person their department issued field badge on his/her belt adjacent to the firearm, shall carry the department identification card, shall wear their department-issued ballistic vest, shall carry a pair of department issued or approved handcuffs, baton, OC spray, two spare magazines of ammunition, radio, and cellular phone.
- c. The firearm will be fully loaded when it is carried or worn on duty. A loaded firearm is one where there is a round in the chamber and a full magazine housed in the magazine well.
- d. Officers are authorized to carry their loaded on-duty weapon, secured in a holster, while off-duty.
- e. An officer shall not board an aircraft armed unless approved by the Chief Probation Officer or the Chief Deputy Probation Officer, upon approval from the carrier, and in compliance with current Federal Aviation Administration procedures and regulations.

#### L. UNHOLSTERING AND DISPLAY OF FIREARMS

- a. Except for routine storage, training, and cleaning, a firearm shall not be removed from the holster or otherwise displayed unless there is a sufficient and compelling reason to do so.
- b. In making the determination to unholster the firearm, it is not necessary for the officer to wait until an individual is actually being assaulted or otherwise under attack before the firearm can be drawn. Rather, if the officer determines that there is or may be a clear and present danger to life, the firearm may be drawn in anticipation of that danger. If, however, that clear and present danger fails to materialize or is otherwise controlled, the firearm shall be immediately reholstered.
- c. In determining if a clear and present danger exists, the officer shall consider and give relative weight to the following factors:
  - i. The display of a firearm or any other article that could cause physical harm if used as a weapon.
  - ii. Information that an individual is or may be armed, making threats, acting dangerously, or has already killed or injured another person.



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- iii. Auditory or visual indications at the scene of potential danger, such as sounds of gunfire, screaming, etc.
- iv. While working in conjunction with law enforcement officers or when exigent circumstances exist.
- d. Officers shall complete an incident report when the firearm is unholstered in response to a hostile confrontation that results in injury or arrest. The incident report shall be completed using the Use of Force form and submitted to the officer's supervisor prior to the end of the working day or as soon as possible and shall be immediately routed to the Chief Deputy Probation Officer through the chain of command.

#### **M. AUTHORITY TO DISCHARGE FIREARM**

- a. It is the policy of the Marin County Probation Department that officers shall use only the force necessary to accomplish lawful objectives and resort to the use of a firearm under law when it appears to be necessary and generally:
  - i. As a means of self-defense when the officer has reasonable cause to believe he/she is in imminent danger of death or serious physical injury; or
  - ii. In defense of another person when the officer has reasonable cause to believe the other person is in imminent danger of death or serious physical injury; or
  - iii. To prevent a crime in which human life is in serious jeopardy as result of a suspect's action; or
  - iv. During approved training, practice, or qualification when supervised by the Rangemaster or Firearms Instructor.
- b. Firing at or from moving vehicles is generally prohibited except in exigent circumstances where there is no other viable option to stop a deadly attack upon the officer or another.
- c. Shots fired into the air, the ground, or any other target merely as a warning are a danger to the officer and the public and are prohibited.
- d. When the officer is under attack from a vicious animal and no other force option is able or capable of stopping that threat.

#### **N. REQUIRED REPORTING OF ON-DUTY FIREARMS DISCHARGE**

All incidents of discharge shall be reported immediately to the Chief Deputy Probation Officer, and to local law enforcement in whose jurisdiction the incident

occurs. In the instance of an officer involved shooting where a firearm is discharged at an individual, the Chief Deputy Probation Officer will coordinate with local law enforcement to determine the appropriate party to conduct the



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investigation. Criminal Investigations will be conducted by law enforcement, while the Internal Affairs Investigation will be conducted by the department.

#### **O. RELINQUISHMENT OF FIREARM**

- a. An officer shall relinquish or surrender his/her firearm only under the following circumstances:
  - i. At the direction of an officer with the rank of Probation Supervisor or above in the department.
  - ii. At the direction of the Rangemaster or Firearms Instructor in charge of any practice facility.
  - iii. At the direction of a law enforcement officer as outlined in the following section.
- b. Whenever there is a discharge of a firearm by an officer, the officer's firearm may be surrendered to the appropriate investigative personnel. The department may request an inspection of the firearm by a person of competent authority to determine its mechanical and/or functional condition, in addition to any other physical examinations that may be necessary as part of the investigation.
- c. Authority for Supplemental Firearm: During the period of time that an officer's firearm is being examined and/or tested, or held as evidence, the Chief Deputy Probation Officer may authorize the temporary issuance of another firearm.

#### **P. STOLEN OR LOST FIREARM**

- a. Officers shall immediately file a report with local law enforcement upon discovery that a firearm has been lost or stolen.
- b. The officer shall subsequently notify their supervisor, who will in turn notify the Chief Deputy Probation Officer via the chain of command.
- c. The officer shall submit a written report to their Supervisor no later than the end of the workday. If the incident occurs while off-duty, the report will be completed and submitted the next business day. The report will be forwarded to the Chief Deputy Probation Officer via the chain of command.
- d. If it is determined that a firearm is lost or stolen due to the negligence of the officer, or any violation of this policy, the officer shall be responsible for reimbursement for the cost of the firearm. The officer is also subject to disciplinary action up to and including termination.



## **IX. Operational**

### **J. Policy Statement on Attorneys at Probation Presentence Interviews**

*Effective Date: 01/02/2007*  
*Review Date: 01/30/2015*  
*Review Date: 06/04/2018*

*Approved: Michael Daly*  
*Prepared By: Michael Daly*  
*Reviewed By: Mariano Zamudio*

#### **General Policy**

It is the policy of the Marin County Probation Department to allow attorneys to be present for the presentence interview when requested by the defendant or the attorney.

#### **Procedure**

Deputies should be clear with attorneys that the interview will be conducted with the defendant and that responses are expected from the defendant, not the attorney. The Probation Officer shall inform his/her Supervisor that an attorney will be present for the interview.



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## IX. Operational

### K. Policy Statement on Training

**Effective Date:** 01/02/2007

**Review Date:** 01/30/2015

**Review Date:** 06/04/2018

**Approved:** Michael Daly

**Prepared By:** Michael Daly

**Reviewed By:** Mariano Zamudio

#### General Policy

The Probation Department is responsible for complying with the law and providing training that will enhance the professional development of the staff.

#### A. STC Annual Hours

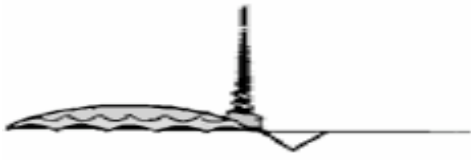
The Probation Department will provide an adequate selection of courses for annual training hours. The Supervisor will monitor the hours. The Department retains the right to direct staff to specific training courses.

#### B. STC CORE Training

Every new sworn staff and certain newly promoted staff must complete Probation Officer/ Juvenile Corrections Officer Core Training course in the Standards and Training for Corrections Program (STC). within a one-year period. The supervisor and/or training officer will be responsible for locating and making arrangements for the training.

#### C. Non-sworn staff are encouraged to work with their Supervisors to attend training that would enhance their skills and better the Department.

*Reference Training Manual*



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**L. Policy on Manual Revisions**

*Effective Date: 03/18/2008    Approved: Michael Daly*

*Review Date: 01/30/2015    Prepared By: Michael Daly*

*Amended Date: 06/30/2014    Amended By: Alisha Krupinsky*

*Amended Date: 06/04/2018    Amended By: Mariano Zamudio*

**General Policy**

It is the policy of the Marin County Probation Department to keep all of the Department's Manuals current and in compliance with the County's Personnel Management Regulations and State and Federal law. All employees are encouraged to participate in this process.

**Procedures:**

1. Any employee may recommend and/or draft a policy and procedure. The recommendation/draft will follow proper chain of command for review and corrections until it is forwarded to the Chief Probation Officer/Chief Deputy Probation Officer/Division Director for final approval.
2. All Department Manuals will have scheduled date to review/add/delete policies as necessary. This will be done on an annual basis; July 1<sup>st</sup>
3. All new policies will be electronically distributed once they have been approved.
4. Manuals will be distributed electronically in whole every quarter if any changes are made. All manuals are stored and accessible via the shared Department drive.





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## IX. Operational

### M. Policy Statement on Evidence Collection

*Effective Date: 01/02/2007*

*Review Date: 01/05/2010*

*Amended Date: 06/04/2018*

*Approved: Michael Daly*

*Prepared By: Mariano Zamudio*

*Amended By: Mariano Zamudio*

#### **General Policy:**

The seizure of evidence shall only be done with the intent to ensure compliance with the conditions of probation and the law. The intent of this policy is to authorize deputy probation officers to only take possession of evidence related to a violation of probation offense that is likely to be filed in Court. Deputy probation officers are encouraged to use digital photography and video whenever possible in lieu of seizing items for violations of probation.

#### **Procedure:**

1. The probation officer may seize evidence of contraband which demonstrates a violation of probation. Seized contraband may be used for the purposes of filing a violation of probation or modification(s) with the Court.
2. There are four possible courses of action to take upon locating presumed contraband:
  - I. Determine it is evidence of a new law violation and ensure that local law enforcement take custody of the item(s)
  - II. Determine it is evidence of a violation of probation that is likely to result in a petition being filed and seize it according to the procedures listed in this policy
  - III. Determine it is not sufficient to warrant confiscation, and videotape/photograph the item(s) to assist in any future court hearing
  - IV. Determine it is not sufficient to warrant confiscation, or videotaping, and request that the owner and/or parent of a minor destroy or properly dispose of the item(s)
3. In instances in which law enforcement is not present to take control of property/evidence related to a new law violation, the appropriate law enforcement agency shall be contacted and asked to take control of the evidence when appropriate. Evidence may be taken to law enforcement for their seizure as long as the chain of evidence is maintained.



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4. Clothing items, such as belts, shirts and caps, or gang related graffiti, are example of items that may reflect a violation of a condition of probation, but do not necessarily warrant confiscation. Drug paraphernalia is an example of an item which would likely require confiscation. Drugs or weapons will likely result in new law violations and would become the responsibility of the law enforcement agency accompanying the probation officer during the search.
5. In all searches, there shall be one staff person designated as the recorder and collector of evidence. It is that officer's responsibility to carefully log and collect all evidence/contraband. Each item, and the exact location where it was found shall be clearly described and documented on the property receipt form.
  - a) Property shall be properly packaged in a sealed bag or container that is approved by the department. DPO staff shall provide receipts to defendants for seized items. Every effort shall be made to prevent the potential for contamination, adulteration or substitution of the evidence, including the wearing of gloves during collection.
  - b) All seized evidence shall have an evidence collection form attached to it. A receipt will be left with the probationer. Case note entries shall be made in the probation file record detailing the seizure.
  - c) Whenever possible, evidence will be placed inside a sealed container affixed with an evidence label which will indicate:
    - the date seized
    - the officer's initials and the probationer's name and date of birth
    - the location from which it was seized.
    - large or bulky items shall be affixed with an evidence tag containing the same information.
  - d) All needles must be secured in a bio-hazard puncture resistant container. Other sharp objects shall be packaged in a manner that will reduce potential for injury to staff. Needles will be collected for destruction and will be photographed for documentation. Needles taken as evidence of drug violations (i.e. containing a substance) typically will result in a new law violation and will be handled by local law enforcement.
  - e) Care shall be used so as not to damage any existing serial numbers or other identifying marks already on the article. Serial numbers or existing distinctive marks already on the article shall be recorded on the property evidence form in the description section.
  - f) Each item shall be placed into a separate bag or container.
6. Law enforcement and/or fire officials should be contacted immediately when any potentially toxic, hazardous, explosive, etc., materials are discovered, and these items should not be touched or removed by the probation officer.



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7. It is imperative that officers establish and maintain the chain of custody and protect the integrity of evidence.
  - a) The number of individuals who handle the evidence should be limited.
  - b) When evidence transfers to another officer:
    - o Record in your case notes as well as on the chain of custody form to whom the evidence was given.
    - o Record the date and time possession was transferred.
    - o Record the reason for it being given to another in the case file.
  - c) Persons handling the evidence shall affix their name, date and assignment to the evidence label.
8. Entering seized property (within Probation's evidence locker) shall be recorded by the designated Custodian of Evidence. In the event the Custodian of Evidence is not available to perform this function, the deputy probation officer who seized the evidence shall place the item(s) into the Evidence Locker and indicate on the Custodian Record of Evidence Log form that the evidence was secured. As soon as possible, the Custodian of Evidence shall take the steps detailed below.
9. The responsibility of the Custodian of Evidence will be to:
  - I. Confirm the evidence is properly stored; bagged, tagged with a label, initialed and dated by the finding officer
  - II. Log the evidence into the attached "Custodian Record of Evidence Log"
  - III. Place the item(s) into the Probation Department's Evidence Locker and secure it
  - IV. Maintain control of the master key to the locker
  - V. Evidence shall be inventoried annually to ensure timely destruction of unneeded evidence.
10. Any removal of items stored in the Evidence Locker, for any reason whatsoever, shall be documented noting the date and time, and reason for the removal, i.e. court proceeding. This event shall also be recorded both in the probation file and on the "chain of custody" section of the evidence bag.
11. In the event a seized item is used in a filing of a violation of probation petition and that petition is sustained, the Department shall request authority from the Court at the conclusion of the hearing to destroy the evidence. In the event a petition is not filed within 60 days or the petition was not sustained, relative to the seized evidence, the evidence shall be returned to the probationer at a date to be determined by the Division Director.



**MARIN COUNTY PROBATION DEPARTMENT MANUAL**

**XI. Operational**

**N. Policy Statement on Assignment to the COPE Team**

***Effective Date: 07/01/2010***

***Review Date:01/30/2015***

***Amended Date: 03/04/2013***

***Review Date:06/04/2018***

***Approved: Michael Daly***

***Prepared By: Mariano Zamudio***

***Amended By: Mariano Zamudio***

***Reviewed By: Mariano Zamudio***

**General Policy**

It is the policy of the Marin County Probation Department that any personnel assigned to the Coordination of Probation Enforcement Unit (COPE) under the direction of the Marin County Sheriff's Office, will be under the administrative direction and supervision of the Sheriff's Office.

The participating Deputy Probation Officer will continue to adhere to Marin County Probation Department policies and training procedures, in addition to relevant special assignment requirements.

A Deputy Probation Officer assigned to the COPE unit, shall submit to an unannounced chemical test twice a year. When applicable, the process for submitting a sample for chemical analysis shall be witnessed by a person of the same sex as designated by a supervisor. The supervisor will follow appropriate procedures to maintain the chain of custody.

In addition, during the period of this special assignment, the assigned officer will be exempt from the Field Visit policy of the Marin County Probation Department as outlined in Marin County Probation Department Manual, section IX, Operational, subsection A, Policy Statement on Field Visits, et seq.

**Purpose**

The purpose of this procedure is to ensure that personnel assigned to the Sheriff's Department COPE unit follow appropriate guidelines while engaged in tactical field operations. Doing so will enhance officer safety and create clarity relative to assignment responsibilities.



**County of Marin**

**MARIN COUNTY PROBATION DEPARTMENT MANUAL**

**IX. Operational**

**O. Policy Statement on Video Recording**

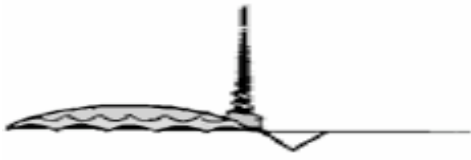
*Effective Date: 01/01/2018*

*Approved: Mariano Zamudio*

*Prepared By: Nuvia Urizar*

**General Policy**

The Marin County Probation Department has the legal and ethical responsibility to safeguard the privacy of our defendants and their families. HIPAA, a federal law prohibiting the release of confidential information also protects our clients and their personal records. Many times, our staff work in offices that may contain confidential information or may be meeting with another client in an adjacent workspace. It is the policy of the Marin County Probation Department that no video or audio recording of a meeting take place within any Marin County Probation facility. The facility director or their designee must approve any exceptions to this policy



**MARIN COUNTY PROBATION DEPARTMENT MANUAL**

**IX. Operational**

**P. Policy Statement on Metal Detector Use**

***Effective Date: 07/10/2018***  
***Prepared By: Kevin Lynch***

***Approved: Mariano Zamudio***

**General Policy**

As a proactive safety precaution, all visitors to Marin County Probation Department buildings shall undergo screening through the metal detector, unless the person is:

- a fellow County employee
- the employee of an organization under contract with the County of Marin
- a personal friend or family member of Probation Department staff who gives prior approval for the visitor to not undergo screening

**Procedure**

If a visitor who is required to undergo screening is unable to pass through the metal detector without setting off the alarm, a sworn staff person shall be contacted before allowing the person to enter the reception area. Reception notifying sworn staff of the issue shall inform them of the failure to clear the detector. The sworn staff shall assess the situation and determine if additional screening with a wand detector is necessary. Sworn staff responding to this situation shall make a determination if the person should be allowed to enter the facility or should not.



## County of Marin

### MARIN COUNTY PROBATION DEPARTMENT MANUAL

## X. Operational

### Q. Naloxone (Narcan) Overdose Prevention Policy

**Effective Date:** 05/22/2018

**Approved:** Mariano Zamudio

**Prepared By:** Dave Cole

#### **General Policy**

It is the policy of the Marin County Probation Department that all officers are required to be trained in the use of naloxone (Narcan) to treat and reduce the injury and fatality from opiate overdoses whether it be to a defendant or a member of the public.

#### **Purpose and Scope:**

To establish guidelines and regulations governing utilization of Naloxone (Narcan) used by the Marin County Probation Department.

#### **Definition:**

Naloxone is a drug that antagonizes morphine and other opiates. Naloxone is a pure opiate antagonist and prevents or reverses the effects of opioids, including respiratory depression, sedation and hypotension.

#### **Training:**

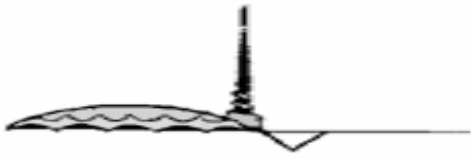
All sworn Deputy Probation Officers will receive initial training that will include an overview of 2014's Senate Bill 1438 that permits law enforcement's use of Naloxone, patient assessment (e.g., signs/symptoms of overdose), universal precautions, rescue breathing, seeking medical attention, and the use of intra-nasal Naloxone, as detailed in the standing order. Upon completion of training, officers will have their training recorded with the Marin County Probation Department.

The Training Supervisor shall ensure initial and refresher training is provided to sworn Deputy Probation Officers authorized to administer opioid overdose medication. Training shall be coordinated with the local health department and comply with the requirements in 22 CCR 100019 and any applicable POST standards (Civil Code Section 1714.22).

#### **Administration of Opioid Overdose Medication (naloxone)**

Sworn Deputy Probation Officers may administer opioid overdose medication in accordance with protocol specified by the licensed health care provider who prescribed the overdose medication for use by the Sworn Deputy Probation Officer and (Civil Code Section 1714.22; 22 CCR 100019):

- a. When trained and tested to demonstrate competence following initial instruction.
- b. When authorized by the medical director of the LEMSA
- c. In accordance with California Peace Officer Standards and Training (POST) standards.



## County of Marin

### MARIN COUNTY PROBATION DEPARTMENT MANUAL

#### **User Responsibilities:**

Sworn Deputy Probation Officers, who are qualified to administer opioid overdose medication, such as naloxone, should handle, store and administer the medication consistent with their training. Sworn Deputy Probation Officers shall check the medication and associated administration equipment at the beginning of their shift to ensure they are serviceable and not expired. Any expired medication or unserviceable administration equipment shall be removed from service and given to the Administrative Supervisor.

Any sworn Deputy Probation Officer who administers an opioid overdose medication shall contact the Communications Center (MCSO Dispatch) as soon as possible and request response by EMS.

#### **Reporting:**

Upon completing the medical assist with the deployment of an opioid overdose medication, the officer will submit an incident report form detailing the nature of the incident, the care the patient received and the fact that Naloxone was deployed. The incident report shall be forwarded to the Marin County Probation Department's Administrative Supervisor and the Supervisor of the officer deploying the opioid medication. The Administrative Supervisor will ensure that the incident report form provides enough information to meet applicable state reporting requirements. The incident report should be scanned, and a case note entered into the case management system where applicable.





## County of Marin

### MARIN COUNTY PROBATION DEPARTMENT MANUAL

## IX. Operational

### R. Policy Statement on Emergency Shelter Arrangements

*Effective Date: August 7, 2018*

*Approved: Michael Daly*

*Prepared By: Kevin Lynch*

#### **General Policy**

In the event of an emergency situation, natural or otherwise, the Chief Probation Officer or their designee can authorize staff to shelter at a Department controlled facility for a period of time. Given the fact that circumstances such as natural disasters or comparable emergency situations are by definition chaotic and fluid, this policy will not be able to address every possible eventuality. However, the following protocols shall apply for any period in which staff are housed in a Department controlled facility due to an emergency situation.

#### **Procedure**

- Such arrangements can only be made after approval by the Chief Probation Officer or their designee.
- Personnel management regulations, specifically Employee Standards of Conduct (PMR 20) and Workplace Security, Safety, and Violence in the Workplace (PMR 26), shall apply throughout the time staff are residing in the facility regardless of whether they are actually on duty or not.
- Staff must notify a Probation Department manager once they no longer require the shelter arrangement.
- The Department will make every effort to meet immediate needs for comfort and safety during a short-term stay due to an emergency situation. The intent of this emergency shelter arrangement is to provide for the most basic short-term fundamental needs.
- The Chief Probation Officer or their designee reserves the right to impose further rules, limitations or requirements beyond what is described in this policy in the event the emergency situation requires it for the safety of all affected.



**MARIN COUNTY PROBATION DEPARTMENT MANUAL**

**IX. Operational**

**S. Policy Statement on Overnight Accommodations**

*Effective Date: May 23, 2018 Approved: Michael Daly  
Prepared By: Kevin Lynch*

**General Policy**

In the interest of supporting Probation Department staff who endure challenging commutes, the Department will offer the opportunity to its own employees (this will not be extended for staff from other departments or to family members) to make use of overnight accommodations at the Juvenile Services Center under the following conditions:

**Procedure**

- Request must be made no less than one week in advance and can only be approved by the Chief Probation Officer and/or his designee.
- The request shall include specific dates for the stay, (requests cannot exceed three consecutive nights), and the basis of the need for this assistance.
- The purpose of this accommodation is to assist Department staff in managing arduous commutes, not to subsidize living costs. This program is not intended to provide staff with a permanent housing arrangement.
- While staying at the Juvenile Services Center, staff shall sign an agreement indicating their understanding of the rules of this arrangement, which will require staff to comply with Personnel Management Regulations 20.3, 20.6, 20.8, 26.1, 26.2 and 26.3.
- No visitors will be allowed into the facility before or after core hours (unless it is work related)
- Staff staying at the facility under this agreement must be willing and able to manage the alarm system, and they will be expected to arm it when not in the building and disarm it when they return
- While every reasonable effort will be made to ensure comfort and privacy under this program, overnight stays at JSC may not interfere with business requirements of the facility, which may include night time meetings or events. Accommodations may vary depending on how many staff request the privilege to stay, and what the business needs of the facility are at the time.
- This request may be denied without cause. It is a privilege not a right, and therefore is not grieveable.



## County of Marin

### MARIN COUNTY PROBATION DEPARTMENT MANUAL

## IX. Operational

### **T. Policy Statement on Vehicles and Accidents**

*Effective Date:* 02/02/2018      *Approved:* Mariano Zamudio  
*Prepared By:* Nuvia Urizar  
*Amended Date:* 10/29/18      *Amended By:* Mariano Zamudio

#### **Policy**

It is the responsibility of the authorized driver of either a County vehicle, or personal vehicle driven on County business, to exercise reasonable care to avoid impediments or obstructions in the path of the vehicle which might cause damage to the vehicle, other vehicles or property, or injury to drivers, passengers, and pedestrians.

Any incident occurring while operating a motor vehicle (County owned; personal or rental while on County business) must be reported by the driver, regardless of severity, to the appropriate supervisor and County Risk Manager as soon as possible.

The County does not reimburse drivers for damage to their personal vehicle. Damage or loss of contents that occurs while parked on County property or while driving on County business, not covered under an auto or homeowner's policy and subject to a deductible may be reimbursed at the discretion of the County Risk Manager

**Collisions/Incident Report Forms:** Collision/Incident reports shall contain information on other vehicles, drivers, property involved, witnesses, weather conditions, road conditions, and any other pertinent information regarding such collision.

#### **Department Reporting Responsibilities:**

- A. Notify the Department Head and Risk Management as soon as possible upon knowledge of injury to anyone involved in an accident – regardless of perceived fault or cause.
- B. In cases where an employee is injured as a result of the accident, the Department Head or his/her designee shall ensure that workers' compensation procedures are followed, and paperwork is submitted via fax or scan to Risk Management within 24 hours of knowledge.



## County of Marin

### MARIN COUNTY PROBATION DEPARTMENT MANUAL

If an employee or other authorized driver is involved in a collision or incident in a personal vehicle while driving on County business, the employee's vehicle insurance coverage is primary to any other coverage

- A. The employee or other authorized driver is responsible for reporting the accident to his/her supervisor and insurance company and completing all related paperwork.
- B. Loss or damage to personal contents in the vehicle and the driver's auto policy deductible may be reimbursed at the discretion of the County Risk Manager.

### Procedures

#### A. In case of an accident:

##### 1. Be Safe.

Check yourself and your passengers for injuries. If you're able to, move to the side of the road or a sidewalk. If your car is safe to drive and is causing a hazard where it is, pull it to the side of the road. Otherwise, leave it where it is and get yourself to safety.

- 2. **Call COM Center immediately.** They will call the local jurisdiction or CHP. Once the local jurisdiction or CHP arrive let them know you work for the county, and you need a police report as this will be helpful later as County Council will request all the pertinent information regarding the accident.

In the glove compartment, you will find the Accident Report Kit manila envelope which contains three items (Accident Report Form, Driver's ID Card and Witness Card). Make sure to fill out all the forms. (make three copies one for the police department, one for County Council and one for our department).

Remember to:

- 3. **Gather as much information as possible.** Write down the names and addresses of all parties involved, including any passengers in the other vehicle. Also remember to obtain the other driver's driver license number, the license plate numbers and the phone number including work phone number of the other involved parties and witnesses. Other things to remember:
  - a. Vehicle descriptions (make, model, year)
  - b. Insurance companies and policy numbers
  - c. Accident scene location and/or address
  - d. Police officer's name and badge number.
  - e. Time and date.
  - f. Weather and traffic conditions.
  - g. Description of the accident.
  - h. Description of injuries and damage.
  - i. Details of police or emergency involvement



## County of Marin

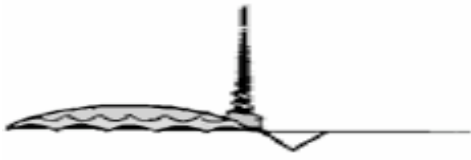
### MARIN COUNTY PROBATION DEPARTMENT MANUAL

j.

4. **Take pictures.** Document the accident thoroughly by taking pictures of your vehicle from different angles, showing the damage done to both cars. It might also be a good idea to take pictures of the other car's license plate. The more pictures, the better as they will help in the investigation of the accident. Record the following:
5. **Talk to witnesses.** If there were any witnesses to the accident, take down their names and their contact information, as well.

#### **B. In case of a malfunction with the vehicle**

During regular business hours, call the garage. The garage hours are 6:30 AM to 5 PM. The telephone number for the garage is (415) 473-7380. If you have any mechanical issues after hours, call COM center, and they will send a tow truck to your location.



## County of Marin

### MARIN COUNTY PROBATION DEPARTMENT MANUAL

## IX. Operational

### U. Policy Statement on Mobile Forensics

*Effective Date: October 22, 2018    Approved By: Michael Daly  
Prepared By: Terry Wright*

#### **General Policy**

The purpose of the Susteen Mobile Forensic Tool is to monitor the defendant's use of his/her cellular phone device. This random cellular extraction process will not be used as an alternative to a physical search of the defendant's person, residence, vehicle, or other property under his/her control. The defendant must have a SB178/Cal ECPA search and seizure consent form signed and filed in Court. Post Release Community Supervision (PRCS) clients are the only exception for not having a consent signed and filed in Court. However, PRCS clients must have a special condition in order for their mobile devices to be searched.

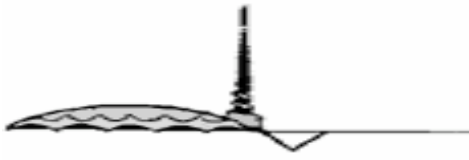
#### **Procedure**

Any case that has a SB178/Cal ECPA search and seizure consent form signed and filed with the Court can be subject to search via the Susteen Mobile Forensic Tool.

The supervising Deputy Probation Officer (DPO) must provide the assigned DPO who is trained to conduct such a search with reasonable notice before requesting a cellular phone extraction. With the request, the supervising DPO must provide details as to what content needs to be reviewed and the possible contraband that is in question.

The supervising DPO must allow for at least 72 hours for an adequate analysis of the content to be conducted. If appropriate, the supervising DPO may seize the cellular phone from the defendant and complete the required Contraband/Property Record (evidence) form and provide such form to the DPO charged with the mobile forensic search.

The DPO conducting the cellular phone search will provide the supervising DPO with an evidence report within 72 hours, detailing what, if any, evidence was found during the search. The supervising DPO will be responsible for contacting local law enforcement if a new crime is identified as being committed. If no new crime is identified, the supervising DPO will determine the most appropriate sanction, if the defendant violated his/her terms and conditions of probation.



**MARIN COUNTY PROBATION DEPARTMENT MANUAL**

**X. Equipment**

**A. Policy Statement on Use of Cell Phones/Laptop/ P.C.'s/Other Equipment**

*Effective Date: 01/02/2007*

*Review Date: 01/30/2015*

*Review Date: 06/04/2018*

*Approved: Michael Daly*

*Prepared By: Michael Daly*

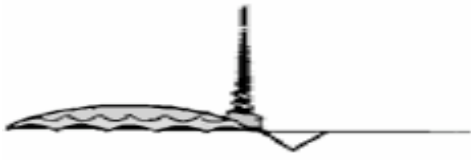
*Reviewed By: Mariano Zamudio*

**General Policy**

The Probation Department is responsible for supplying equipment to employees in order for them to do their job. Staff shall only use Departmental issued equipment authorized by the Chief or his/her designee.

**Procedure**

1. The Probation Department and the County will not be responsible for use of unauthorized equipment.
2. Electronic equipment has been issued in an effort to assist in caseload management, communication and officer safety. This equipment may be assigned to a unit or function, or to an individual. This equipment is for work related purposes only.
3. If County-issued electronic equipment is lost or damaged due to negligence; the employee to whom it is assigned may be responsible to reimburse the Department for replacement/repair costs.
4. The Department shall maintain an inventory of all equipment issued.
5. Return of department-issued equipment
  - A. All department-issued equipment will be returned on the last day of employment.
  - B. If Department issued equipment has been lost or damaged, arrangements will be made to reimburse the County for said equipment.



## County of Marin

### MARIN COUNTY PROBATION DEPARTMENT MANUAL

## X. Equipment

### B. Policy Statement on Departmental Badges

*Effective Date: 01/02/2007*

*Review Date: 01/30/2015*

*Review Date: 06/04/2018*

*Approved: Michael Daly*

*Prepared By: Michael Daly*

*Reviewed By: Mariano Zamudio*

#### **General Policy**

Pursuant to Section 830.5 of the Penal Code, all professional staff (i.e. DPO's & JCO's) have peace officer status. Given this status, staff will be issued a departmental badge to utilize in the course of their duties.

Upon termination of County employment, staff must return badges to Administration. Staff shall be liable for the replacement cost of lost or non-returned badges.





## County of Marin

### MARIN COUNTY PROBATION DEPARTMENT MANUAL

## X. Equipment

### C. Policy Statement on County Issued Identification Cards

*Effective Date: 01/02/2007*

*Review Date: 01/30/2015*

*Review Date: 06/04/2018*

*Approved: Michael Daly*

*Prepared By: Michael Daly*

*Reviewed By: Mariano Zamudio*

#### **General Policy**

It is the policy of the Marin County Probation Department to issue Department Identification cards for the purpose of identifying oneself while on duty as well as accessing the Civic Center building and other County services. Any alterations to the standard issued card must be pre-approved by the Chief Probation Officer.

#### **Procedures**

1. In order to receive a County Identification Card, you must be employed by the County.
2. The County Identification Cards are distributed by filling out the appropriate form issued from the Business Manager and making an appointment with the Marin County Sheriff's Office for picture/processing.
3. The Identification Card shall be carried at all times while on duty.
4. If the card is lost or stolen, contact your immediate Supervisor as soon as possible.



## County of Marin

### MARIN COUNTY PROBATION DEPARTMENT MANUAL

## X. Equipment

### D. Policy Statement on Automobiles

*Effective Date: 06/16/2008*

*Review Date: 01/30/2015*

*Amended Date: 06/04/2018*

*Approved: Michael Daly*

*Prepared By: Michael Daly*

*Amended By: Mariano Zamudio*

#### General Policy

#### USE OF COUNTY AUTOMOBILES

The Probation Department strongly prefers that County vehicles, both those taken from the pool at Civic Center and those designated to the Department, **NOT** be maintained at an employee's place of residence. The increased potential liability for the County, Department and employee, would indicate that this is not a good practice. The Department recognizes, however, that there may be certain exceptions to this policy, including the following:

- Juvenile Division Placement staff using the vehicle in the course of their normal duties
- All staff who receive approval from the Division Director, the Chief Deputy or Chief Probation Officer

Placement staff are encouraged to coordinate their travel to avoid keeping the vehicle overnight at their residence, and when they must do so, to ensure that such an event does not impact the Department's access to the vehicle the following day. Supervisors should be aware of the use of the vehicles in this manner in advance.

All staff who wish to request to keep a vehicle overnight at their residence must make the request prior to the expected need.

*County Vehicle Policy-*

[Administrative Regulation 1.22 - Administrator's Office - County of Marin](#)

## **X. Equipment**

### **E. Policy Statement on Body Armor**

***Effective Date: 3/29/09***

***Review Date: 01/30/2015***

***Amended Date: 06/04/2018***

***Approved: Michael Daly***

***Prepared By: Michael Daly***

***Amended By: Mariano Zamudio***

#### **I. General Policy**

It is the policy of the Marin County Probation Department to maximize officer safety through the use of Department approved body armor, in combination with prescribed safety procedures. The Department will provide personal body armor to all sworn staff. While body armor provides a significant level of protection, it is not a substitute for the observance of officer safety procedures.

Body armor is safety equipment. Probation officers and supervisors shall wear body armor when making offender contacts outside the office. Vests have the potential to decrease personal injury. The following procedures provide guidance in the proper issuance, use, and care of the equipment.

#### **II. Procedures**

##### **A. Issuance of Body Armor**

1. The Adult Division Director or designee is responsible for selecting, purchasing, issuing, and replacing body armor, as approved by the Chief Probation Officer or his/her designee. This individual will also be responsible for maintaining an inventory of all body armor.
2. All body armor issued must comply with protective and related standards as prescribed by the National Institute of Justice.
3. All Officers will be issued body armor.
4. The Adult Director or designee will provide officers with a date, time, and location to be fitted for body armor, as soon as possible.

##### **B. Use of Body Armor**

1. Officers shall wear only agency-approved body armor.
2. Body armor shall be covered and concealed by clothing or outer carrier.
3. When engaged in routine activities in the office, community, or Court, the wearing of body armor is at the discretion of the officer.

4. Officers are **required** to wear body armor during the following field activities:
  - a. Organized and planned law enforcement activities;
  - b. Probation search and seizure operations.
  - c. Warrant serving activities.
  - d. Arrest operations.
5. Officers shall wear their body armor in accordance with the Department's policies, unless **exempted** as follows:
  - a. When a licensed physician determines that an officer has a medical condition that would preclude wearing body armor. They should be precluded from going into the field.
  - b. When the department determines that circumstances make it inappropriate to mandate wearing body armor.
6. Officers shall carry their body armor with them when in the field, in an equipment bag or case, to ensure that it is available when needed.
7. When not being worn, body armor is to be maintained and stored in a secure place, such as the trunk of the officer's vehicle.

### **C. Inspections of Body Armor**

1. Supervisors shall be responsible for ensuring that body armor is worn and maintained as required by this policy through routine observation
2. Individual officers shall annually inspect body armor for fit, cleanliness, and signs of damage, abuse, and wear.
3. The Adult Division Director or designee will monitor and notify officers of a date to be fitted for new armor. Upon receipt of new armor, the officer is to return old armor to the department.
4. Body armor outside of the stated life expectancy is not to be used under normal circumstances.

### **D. Care, Maintenance and Replacement of Body Armor**

1. Officers shall routinely inspect personal body armor for signs of damage and for general cleanliness.
2. As dirt and perspiration may erode ballistic panels, each officer shall be responsible for cleaning personal body armor in accordance with the manufacturer's instructions.

3. Officers are responsible for the proper storage, maintenance and care of body armor in accordance with manufacturer's instructions.
4. Body armor should be maintained in a secure area when not in use.
5. Officers are responsible for reporting damage or excessive wear to the ballistic panels or cover to their supervisor and/or the individual responsible for the equipment supply function.
6. Body armor will be replaced in accordance with guidelines and protocols established by the National Institute of Justice. Typically, body armor is replaced every five years from the date of issuance. Body armor that has been damaged or lost as a result of improper care or misuse by the officer may be replaced, with the cost of replacement being charged to the assigned officer.
7. Officers issued body armor will retain the armor upon transfer to a new assignment, given that body armor is custom fitted to the individual, and its re- deployment not feasible.

## **X. Equipment**

### **F. Military Equipment Policy**

*Effective Date: 04/28/22*  
*Prepared By: Terry Wright*

*Approved: Chief Marlon Washington*

#### **PURPOSE**

This policy establishes guidelines for the acquisition, funding, use and reporting of “military equipment”, as the term is defined in Government Code section 7070. This policy is adopted to fulfill the obligations set forth in Assembly Bill No. 481. These obligations include but are not limited to seeking approval on specific items deemed to be military equipment and requirements related to compliance, annual reporting, cataloging, and complaints regarding these items.

#### **POLICY**

It is the policy of the County of Marin Probation Department (“Department”) that legally enforceable safeguards, including transparency, oversight, and accountability measures, be in place to protect the public’s welfare, safety, civil rights, and civil liberties before military equipment is funded, acquired, or used.

#### **PROCEDURE**

##### **A. DEFINITIONS**

1. “Governing body” means the Marin County Board of Supervisors.
2. “Military equipment” means the items defined by California Government Code section 7070, subsections (c)(1) through (c)(16).

##### **B. GENERAL**

1. The Department shall obtain the approval of the Governing body prior to engaging in any of the following activities:
  - a. Requesting military equipment made available pursuant to Section 2576a of Title 10 of the United States Code.
  - b. Seeking funds for military equipment including, but not limited to, applying for a grant, soliciting or accepting private, local, state, or federal funds, in-kind donations, or other donations or transfers.
  - c. Acquiring military equipment either permanently or temporarily, including by borrowing or leasing.
  - d. Collaborating with another law enforcement agency in the deployment or other use of military equipment within the territorial jurisdiction of the Governing body.
  - e. Using any new or existing military equipment for a purpose, in a manner, or by a person not previously approved by the Governing body pursuant to general order. Soliciting or responding to a proposal for, or entering into an agreement with, any other person or entity to seek funds for, apply to receive, acquire, use, or collaborate in the use of, military equipment.
2. In seeking the approval of the Governing body, the Department shall submit a proposed military equipment use policy, or subsequent amendments, to the Governing body and the public via the Department’s internet website at least 30 days prior to any public hearing concerning the military equipment at issue.

##### **C. MILITARY EQUIPMENT USE CONSIDERATIONS**

1. The military equipment acquired and authorized by the Department is:
  - a. Necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety.

- b. If purchased, reasonably cost effective compared to available alternatives that can achieve the same objective of officer and civilian safety.
2. Military equipment shall only be used by a Department employee after applicable training, including any course required by the Commission on Peace Officer Standards and Training, has been completed, unless exigent circumstances arise.

D. MILITARY EQUIPMENT REPORTING CONSIDERATIONS

The Department shall submit an annual military equipment report to the Governing body that addresses each type of military equipment possessed by the Department.

1. The Department shall also make each annual military equipment report publicly available on its internet website for as long as the military equipment is available for use.
2. The annual military equipment report shall, at a minimum, include the following information for the immediately preceding calendar year for each type of military equipment:
  - a. A summary of how the military equipment was used and the purpose of its use.
  - b. A summary of any complaints or concerns received concerning the military equipment.
  - c. The results of any internal audits, any information about violations of the military equipment use policy, and any actions taken in response.
  - d. The total annual cost for each type of military equipment, including acquisition, personnel, training, transportation, maintenance, storage, upgrade, and other ongoing costs, and from what source funds will be provided for the military equipment in the calendar year following submission of the annual military equipment report.
  - e. The quantity possessed for each type of military equipment.
  - f. If the Department intends to acquire additional military equipment in the next year, the quantity sought for each type of military equipment.
  - i. Within 30 days of submitting and publicly releasing an annual military equipment report, the Department shall hold at least one well-publicized and conveniently located community engagement meeting, at which the general public may discuss and ask questions regarding the annual military equipment report and the Department's funding, acquisition, or use of military equipment.

E. CATALOGING OF MILITARY USE EQUIPMENT

All military use equipment kept and maintained by the Department shall be cataloged in a way that includes each of the following:

1. The manufacturer's description of the equipment.
2. The capabilities of the equipment.
3. The purposes and authorized uses for which the Department proposes to use the equipment.
4. The expected lifespan of the equipment.
5. The fiscal impact of the equipment, both initially and for on-going maintenance.
6. The quantity of the equipment, whether maintained or sought.
7. The legal and procedural rules that govern each authorized use.

F. COMPLIANCE

1. The Department will ensure that all Department personnel comply with this policy. The Department will conduct an annual audit with the assistance of the Professional Standards Bureau. The Chief Probation Officer or designee will be notified of any policy violations and, if needed, the violation(s) will be referred for appropriate disciplinary action.
2. Any member of the public can submit a complaint to any member of the Department and in any form (i.e. in person, telephone, email, etc.). Once the complaint is received, it should be routed to the Chief.

## G. FUNDING

The Department shall seek Governing body approval for military equipment, including, but not limited to, applying for a grant, soliciting or accepting private, local, state, or federal funds, in-kind donations, or other donations or transfers.

1. The Department has authority to apply for funding prior to obtaining Governing body approval in exigent circumstances. The Department shall obtain Governing body approval as soon as practicable.

## H. MILITARY USE EQUIPMENT

### 1. **Colt Law Enforcement M4 Carbine AR15.**

- a. Description, quantity, capabilities, and purchase cost: Gas Operated Semi-Automatic .223 Caliber carbine firearm; approx. cost: \$800; quantity: 5.
- b. Purpose: For training so officers can become familiar with handling assault-style firearms when encountered in the field, either during a probation search or in a critical incident with partner agencies.
- c. Authorized Use:  
Only authorized for use during scheduled training activities; they are not to be regularly fielded by Department officers.
- d. Lifespan:  
Indefinite.
- e. Fiscal Impact  
Annual maintenance cost of approximately \$200.
- f. Procedural Rules  
Any use shall comply with the procedures and standards set forth in Chapter IX, subdivisions I ("Policy Statement on Firearms") and K ("Policy Statement on

# X. Equipment

## G. WRAP restraint Policy

**Effective Date: 04/28/22**

**Approved: Chief Marlon Washington**

**Prepared By: Terry Wright**

**WRAP** - The WRAP, manufactured by Safe Restraints, Inc., was designed as a temporary restraining device. The WRAP immobilizes the body and restricts a subject's ability to kick or do harm to oneself and others. The Marin County Probation Department has approved the use of the WRAP within the guidelines provided.

### **APPLICATION OF THE WRAP RESTRAINT DEVICE**

The WRAP is designed to prevent injury to the subject in custody or another person, or to prevent property damage caused by the suspect using their legs in a manner likely to result in injury or damage. It is recommended that three or more deputies should be used to apply the WRAP to a violent or combative subject but a minimum of two can safely and securely apply the WRAP. Only qualified personnel who have received training in the use of the WRAP should use this restraining device.

The WRAP can be used prior to or after a violent or potentially violent/combatative subject is controlled using approved department methods. Once applied, the subject shall not be left unattended. Once the subject is properly restrained in the WRAP, he/she can be placed on his/ her side or in a sitting position.

When the WRAP is applied in a custodial setting, all Department policies pertaining to Use of Restraints will be in effect.

The following guidelines shall be used when applying the WRAP restraint:

- (a) When practical, deputies should notify dispatch of the intent to apply the WRAP restraint.



- (b) A supervisor shall be notified as soon as practical after the application of the WRAP restraint.
- (c) Absent a medical emergency, the subject being restrained shall remain restrained until arrival at the jail, or other facility or the subject no longer poses a threat.
- (d) A deputy shall monitor the restrained suspect.
- (e) The deputy shall watch for signs of labored breathing and seek medical attention when needed

Refer to the Procedures and Attachments section of this policy for a detailed guide on how to apply the WRAP.

#### TRANSPORTATION

When transporting a suspect who has been restrained, deputies shall observe the following procedures:

- (a) Prior to vehicle transportation, re-check all belts to ensure that they are securely fastened.
- (b) Suspects shall be seated in an upright position and should be secured by a seatbelt when doing so would not compromise officer safety. When the suspect cannot be transported in a seated position, he/she shall be taken by ambulance/paramedic unit.
- (c) When taken by ambulance/paramedic unit, a deputy shall accompany or follow the suspect.
- (d) In all cases of suspected Excited Delirium, subjects shall be transported by ambulance to the hospital and a deputy shall accompany the suspect.

#### (e) PRECAUTIONS

The following precautions should be taken whenever any person has been placed into the WRAP:

- (a) The shoulder harness should never be tightened to the point that it interferes with the subject's ability to breathe.
- (b) If the restrained subject complains of or show signs of breathing distress (shortness of breath, sudden calmness, a change in facial color, etc.), medical attention should be provided immediately.
- (c) The subject shall never be left unattended.
- (d) Subjects should be placed in an upright sitting position or on their side as soon as possible to allow for respiratory recovery.
- (e) The WRAP is to be used only by personnel trained by the Department in its use.

#### REPORTING REQUIREMENTS

Anytime the WRAP is used, the circumstances requiring the use shall be documented in the deputy's report. The deputy should include the following in the report:

- (a) The amount of time the suspect was restrained.
- (b) How the suspect was transported and the position of the suspect.
- (c) Observations of the suspect's physical actions and any other reasons justifying use of the WRAP.
- (d) Any known or suspected drug use or other medical problems.

# APPENDIX



# RELEASE

## PHOTOGRAPHY USE

I, \_\_\_\_\_, hereby grant and authorize Marin County Probation the right to take, edit, alter, copy, exhibit, publish, distribute and make use of any and all pictures taken or given to Marin County Probation of me to be used in and/or for legally promotional materials including, but not limited to websites, brochures, advertisements, annual reports, social networking sites and other print and digital communications, without payment or any other consideration. This authorization extends to all languages, media, formats and markets now known or hereafter devised. This authorization shall continue indefinitely, unless I otherwise revoke said authorization in writing.

I understand and agree that these materials shall become the property of Marin County Probation and will not be returned. I hereby hold harmless, and release Marin County Probation from all liability, petitions, and causes of action which I, my heirs, representatives from any and all claims and demands – including but not limited to any and all claims for violation of rights of publicity, invasion of privacy, libel, defamation or copyright infringement.

I warrant that I am fully of age and have the right to contract in my own name. This agreement will be binding upon me, my heirs, legal representatives, and assigns.

I have read and understood the provisions of this agreement, and understand that I am free to obtain advice from legal counsel of my choice, at my expense, to interpret these provisions. By signing below, I acknowledge that I have freely and voluntarily entered into this agreement.

Additionally I also authorized the Department to use my child's photograph likeness or image as stated above.

SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

PRINT NAME: \_\_\_\_\_

I DO NOT authorize Marin County Probation the right to take, edit, alter, copy, exhibit, publish, distribute and make use of any and all pictures taken or given to Marin County Probation of me to be used in and/or for legally promotional materials including, but not limited to websites, brochures, advertisements, annual reports, social networking sites and other print and digital communications, without payment or any other consideration..

SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

PRINT NAME: \_\_\_\_\_

# MARIN COUNTY PROBATION DEPARTMENT

## Request for Arming Authorization Form

To: Michael D. Daly, Chief Probation Officer

I, \_\_\_\_\_, Deputy Probation Officer, have completed the approved firearm training program and have completed the prerequisites to carrying a department issued firearm on-duty. I request permission to carry the following firearms in the performance of my official duties:

Department issued Glock 22, .40 caliber  
Department issued Glock 23, .40 caliber  
Department issued Glock 27, .40 caliber

I understand that the arming program of the Marin County Probation Department is completely voluntary and arming is not a prerequisite to performing the duties of a Deputy Probation Officer. Further, I understand that permission to carry a firearm is a privilege, not a right, and, if granted, may be revoked by the Chief Probation Officer at any time. Such revocation is not appealable or grievable.

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Date Signed

Print Name \_\_\_\_\_

\_\_\_\_\_  
Rangemaster/Firearms Instructor: Recommend \_\_\_\_\_ Don't Recommend \_\_\_\_\_

Signature \_\_\_\_\_ Completed Training  
Program:

Print Name \_\_\_\_\_ Yes \_\_\_\_\_ No \_\_\_\_\_ In-  
Progress \_\_\_\_\_

\_\_\_\_\_  
As Chief Probation Officer for the Marin County Probation Department, I hereby authorize Deputy Probation Officer \_\_\_\_\_ to be armed and

carry the firearms listed above, in the performance of his/her official duties.

Signed \_\_\_\_\_  
Marlon Washington, Chief Probation  
Officer

\_\_\_\_\_  
As Chief Probation Officer for the Marin County Probation Department, I have considered your request for arming authorization and at this time do not authorize your request.

Signed \_\_\_\_\_

**Marlon Washington, Chief Probation  
Officer**

# I.I Overnight Accommodations Request Form

**Name of Staff:** Click or tap here to enter text. **Date of Request:** Click or tap to enter a date.

**Requested Date/s:** Click or tap to enter a date. **To:** Click or tap to enter a date.

I understand and have read the following Personnel Management Regulations [20.3](#), 20.6, 20.8, [26.1](#), 26.2 and 26.3

I understand that no visitors will be allowed into the facility before or after core hours.

I am willing and able to manage the alarm system, and know that I will be expected to arm it when I am not in the building and disarm it when I return.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_