

Investigations Division  
Special Investigations Bureau  
Orange County Sheriff's Department

Policy and Procedures Manual

**Investigations Division  
Special Investigations Bureau  
Orange County Sheriff's Department**

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**INVESTIGATIONS DIVISION  
SPECIAL INVESTIGATIONS BUREAU  
ORANGE COUNTY SHERIFF-CORONER DEPARTMENT**

**SECTION: 1-1**

**SUBJECT: TRAINING PROGRAM**

**I. CONCEPT AND ISSUES**

**A. Purpose**

The purpose of this order is to provide policy and guidelines to establish an ongoing and relevant training program designed to achieve the following objectives:

1. To use all training time as effectively as possible.
2. To meet all State mandated training requirements.
3. To meet all POST mandated training requirements.
4. To meet all Departmental mandated training requirements.
5. To enhance the effectiveness of the Special Investigations Bureau by increasing the skills, abilities, and/or awareness in relevant subjects of all Bureau personnel.
6. To utilize special schools to maximum benefit.

**B. Background**

Training is a critical, ongoing responsibility of unit supervisors. An effective training program enhances officer safety and individual competency, as well as reduces potential Departmental exposure to civil claims. This section delineates the specific responsibilities for accomplishing Bureau training mandates.

**C. Scope of Policy**

This policy applies to all Special Investigations Bureau personnel. Training is an essential responsibility of unit supervisors.

**D. Accountability**

All Special Investigations Bureau personnel are responsible for being aware of, and adhering to this policy.

**E. Conclusion**

This policy is designed to delineate specific responsibility for accomplishing the Special Investigations Bureau training mission and to ensure compliance with Departmental mandates in this area.

**II. POLICY****A. Responsibilities**

1. The Special Investigations Bureau Lieutenant has the overall responsibility for the management of training. The Bureau Lieutenant provides guidance for the development of the training program, allocates resources, and monitors and evaluates the results.
2. The unit supervisors are responsible for the detailed planning and implementation of training, or approval of the training plan provided by other Department personnel or outside agencies. The unit supervisors must be cognizant of and provide for different levels of training reflective of the varying proficiency levels of individual deputies of his/her detail. The training program must be multi-level in nature, dealing with both individuals and details, and aimed at their relative levels of proficiency. The Special Investigations Bureau Lieutenant shall regularly inspect the conduct of training.
3. The unit sergeants are responsible for a variety of training and instruction which include the following:
  - Plan, prepare and conduct training which is consistent with the needs of their personnel.
  - Ensure that each investigator/deputy assigned completes Department mandated training, i.e., duty pistol qualification, M-4, and shotgun qualification as needed.
  - Notifying the Special Investigations Bureau Lieutenant of any potential training deficiencies.
  - To develop, plan, prepare, conduct and evaluate training in specific subject areas.
  - Proactively institute training where needs are demonstrated.

- Establish and maintain liaisons with special organizations and counterparts in other agencies and encourage the frequent exchange of information.

**B. Mandated Training**

There are numerous mandated training classes with varying time requirements and frequency of completion. The State, POST, and Department all require unique mandated training with courses and frequency often changing. The following classes, as well as numerous “one time only” mandated training courses which are on-going and must be updated periodically, include but not limited to:

- Narcotics Investigation Course
- Continuing Professional Training – Advanced Officer Training as mandated by POST
- Duty Weapon(s) – monthly qualification
- Criminal Investigations Course – as mandated by POST
- Dignitary Protection Course
- CFR 28, Part 23 Course

**C. Unit Optional Training**

1. Unit optional training is normally intended to provide training that is not required, but where a specific need for the training has been identified. The available programs are often job specific and may include:

- Seminars, Institutes, etc. (CGIA, OCGIA, CNOA, WSVIA)
- Training for Trainers
- Advanced Weapons Training
- Driver's Training
- Tactical Training Courses

2. Participation in Unit Optional Training courses is highly encouraged. Often, this optional training only benefits the personnel attending.

Therefore, those personnel attending may be asked to provide their learned training to their fellow Unit members.

**D. Scheduled Training Classes**

1. Upon receiving a "Scheduled Training" memo from the unit supervisor, the unit member will make every effort to attend the training class. If a conflict should arise where the unit member cannot attend the scheduled training, prior approval must be obtained from the concerned unit supervisor and notification made to the Training Division.
2. Unforeseen attendance problems will occur, such as last minute subpoena summons, etc., wherein the unit member will be unable to make a timely notification to the supervisor. The unit member shall telephone the supervisor as soon as possible to advise him/ her of the absence and make notification to the Training Division.



**INVESTIGATIONS DIVISION  
SPECIAL INVESTIGATIONS BUREAU  
ORANGE COUNTY SHERIFF-CORONER DEPARTMENT**

**SECTION: 1-2**

**SUBJECT: FICTITIOUS IDENTIFICATION GUIDELINES**

**I. POLICY - U/C FICTITIOUS IDENTIFICATION**

- A. Undercover (U/C) fictitious identification documents are such items as Driver's License, Vehicle Registration, etc. that will be used for official investigative purposes.
- B. Special Investigations Bureau personnel who have a need for such documents shall be guided by this Policy.
- C. Scope of Policy

This policy applies to all Special Investigations Bureau personnel.

**II. PROCEDURE FOR OBTAINING DOCUMENTS**

- A. Personnel requesting U/C fictitious identification, with the approval of the Special Investigations Bureau Lieutenant, shall obtain proper documentation request forms for fictitious driver's licenses from the North Narcotics Investigative Assistant (IA) and prepare and submit them to the Assistant Sheriff in charge of Investigations for approval.
- B. Undercover credit cards, vehicle registration and any other fictitious undercover identity shall be submitted to the Captain of Investigations Division for approval.
- C. A separate file shall be maintained by the individual unit supervisor within the Special Investigations Bureau for tracking purposes. A complete file shall be maintained by the IA of the North Narcotics Unit, including all correspondence requesting the fictitious documents, a photocopy of the requestor's true driver's license and the fictitious document issued.

- D. In instances of “deep cover” operations, consideration for officer safety should be given to providing the under-cover name, DOB, covert vehicle and cell phone numbers, etc., to LACLEAR for input into their database. Should an inquiry be made, notification to the designated point of contact will be given.
- E. The unit sergeant is responsible for tracking all fictitious documents while in use.
- F. When the need for a fictitious document is no longer required, the document shall be immediately surrendered to the Unit Sergeant who will forward the document to the North Narcotics Investigative Assistant (IA). In turn, the IA will return the fictitious document to the issuing agency. The dates the document(s) was (were) surrendered will be noted by the Unit Sergeant or IA. When personnel leave their Special Investigations Bureau unit, the supervisor shall ensure that any U/C Fictitious Identity no longer in use has been surrendered.
- G. **The use of fictitious identification for other than official business is prohibited.**
- H. Personnel utilizing such documents shall also comply with all regulations of the issuing agency concerning such documents. If at any time these documents are lost, a memorandum shall immediately be submitted to the Division Captain detailing the circumstances of the loss. In addition, a Lost or Stolen Property Report shall be submitted by the U/C.

**INVESTIGATIONS DIVISION  
SPECIAL INVESTIGATIONS BUREAU  
ORANGE COUNTY SHERIFF-CORONER DEPARTMENT**

**SECTION: 1-3**

**SUBJECT: DRESS**

**POLICY**

1. Special Investigations Bureau personnel should maintain a dress and grooming standard consistent with the necessities of the assignment. Good judgment and taste should be the guidelines used by Bureau personnel. During courtroom testimony, the prosecuting agency may require a more formal/business attire. Bureau personnel will comply with courtroom dress protocol. Bureau personnel are reminded that, at times, he/she may be meeting with dignitaries, VIP's or other community leaders, as a representative of the Sheriff's Department and they should dress appropriately.
  - a. Open toed shoes and sandals should not be worn, except by permission of the Unit Supervisor and then only if the assignment dictates it.
  - b. Shorts should not be worn while assisting in airport interdiction. However, investigators responding to the airport from the field, or working in an undercover capacity, are exempt.
  
2. The following guidelines shall be adhered to when providing testimony in court:
  - a. Superior Court            Business Attire
  - b. Jury Trials                Business Attire

**INVESTIGATIONS DIVISION  
SPECIAL INVESTIGATIONS BUREAU  
ORANGE COUNTY SHERIFF-CORONER DEPARTMENT**

**SECTION: 1-4**

**SUBJECT: OVERTIME USAGE AND TRACKING**

For additional information see OCSD Policy Manual Section 1038

**PURPOSE**

The purpose of this policy is to provide guidance for the use of overtime and responsibilities for tracking the usage.

**POLICY**

Special Investigations Bureau personnel shall not work overtime when their duties can be performed during regular work hours. Supervisors and unit members work a 4/10 work schedule to help provide more flexibility for related investigations.

Because of the nature of these investigations, it is often not possible to anticipate when or where an investigation will require more hours than during regular work hours. Under these circumstances, Bureau personnel will seek the approval of their unit supervisors.

**Call-Back Overtime**

Unit members may be called out during off-duty hours to assist in related investigations. These call-outs are coordinated through the unit supervisor.

**Tracking Overtime Use**

The Lieutenant of the Special Investigations Bureau will receive a monthly budget analysis from Sheriff's Financial Services. These budget reports will outline the various funds under the Bureau's control, including overtime, and will show the amounts spent and amounts available. The Lieutenant will monitor the spending involved for all units in the Bureau.

**48 Hour Overtime Limit** Whenever Bureau personnel work in excess of 48 hours of overtime during a pay period, the unit supervisor will write a memorandum to the Division Commander detailing the reason for the overtime worked and the amount of overtime hours.

**INVESTIGATIONS DIVISION  
SPECIAL INVESTIGATIONS BUREAU  
ORANGE COUNTY SHERIFF-CORONER DEPARTMENT**

**SECTION: 1-5**

**SUBJECT: SEIZURE AND FORFEITURE OF DRUG ASSETS**

**I. Concept and Issues**

**A. Purpose**

The purpose of this policy is to outline the guidelines necessary for the seizure and forfeiture of narcotic money and property by Special Investigations Bureau personnel.

**B. Background**

Under Federal and State law, law enforcement is allowed to seize assets from drug dealers and apply for those assets under forfeiture proceedings. The idea behind drug asset seizures is to assist law enforcement efforts in combating narcotic activity by eliminating some of the resources of the drug dealer, i.e., money, vehicles, or structures.

The process of asset forfeiture is a long and complicated one. It is important that Bureau personnel follow the steps necessary in this forfeiture process to ensure Federal or State laws are adhered to; so the assets will properly be forfeited.

**C. References**

Asset Seizure Authorities

State: (1) **H&S 11470** – defines items which can be seized.

(2) **H&S 11488** – Gives authority to peace officers to seize any item subject to seizure under H&S 11470 when attempting to or making an arrest for offenses of manufacturing, distribution, transportation for sale, sales, possession for sale, offer for sale, offer to manufacture or conspiracy as defined under Penal Code Section 182, to commit those offenses enumerated in sections 11470 and 11488 of the Health and Safety Code.

(3) **California State Senate Bill 443 (SB 443)**

- a) State or local law enforcement agencies may not receive forfeited property or proceeds from property forfeited pursuant to federal law unless a defendant is convicted in an underlying or related criminal action of a specified offense, or any offense under federal law that includes all of the elements of one of the specified California offenses. Specifies an exception to the conviction requirement if the value of the assets is \$40,000 or greater.
- b) Requires a conviction on the related, specified criminal charge to forfeit property in every case in which a claim is filed to contest the forfeiture of property, unless the defendant in the related criminal case willfully fails to appear for court, or if the value of the assets is \$40,000 or greater, as specified.
- c) Specifies that state and local law enforcement authorities shall not refer, or otherwise transfer, property seized under state law to a federal agency seeking the adoption of the seized property.
- d) Clarifies that SB 443 does not prohibit the federal government from seeking forfeiture under federal law, or sharing proceeds from federal forfeiture proceedings with state and local law enforcement in those situations where there are joint investigations.
- e) Clarifies that SB 443 does not prohibit state or local law enforcement from participating in joint law enforcement operation with federal agencies.

Federal: Title 21 United States Code (USC), Section 881(e) – authorizes the U.S. Attorney General to dispose of forfeited property by transferring custody or ownership to a state agency pursuant to the Tariff Act of 1930, Title 19, USC, Section 1616.

**D. Scope of Policy**

This policy applies to all Special Investigations Bureau personnel. It will be the responsibility of unit supervisors to ensure that the guidelines set forth are followed.

**E. Accountability**

All Special Investigations Bureau personnel are responsible for being aware and adhering to this policy.

**F. Training**

This policy will be included in the training for all Special Investigations Bureau personnel.

**II. POLICY**

In general, any property to be seized and subject to the forfeiture process must be free of liens. Special Investigations Bureau personnel must be able to establish sufficient nexus between the property to be seized and the drug activity. For asset forfeiture details, Bureau personnel will refer to the OCSA Asset Forfeiture Manual. Any asset forfeiture questions that arise should be directed to the unit supervisor or deputy district attorney assigned to the District Attorney's Asset Forfeiture Unit.

**A. Cash or cash Equivalent**

Cash or its equivalent is the most common type of asset seized. If the cash is used or intended to be used to facilitate drug dealing, if it is exchanged or is intended to be exchanged in a drug transaction, or if it can be traced back to a narcotics exchange, it is subject to seizure and forfeiture.

Cash seized for forfeiture shall be in amounts greater as follows:

State: \$500 or more

Federal: \$5,000

**B. Money Seized by Disclaimer of Ownership**

If currency in any amount is seized from a subject during a narcotics investigation and the individual disclaims ownership in the money, that person will be asked to sign a "Disclaimer of Ownership" form. A copy of the "Disclaimer of Ownership" form will be given to the individual or placed into his property, if arrested. (See Attachment B)

**C. Vehicles (Automobiles, Motor Homes, Trailers, Boats, Motorcycles, or planes)**

Whenever a vehicle is seized for asset forfeiture proceedings, it shall be transported to the contracted auctioneer for storage, maintenance and auction.

1. The vehicle was used to facilitate the sales of narcotics or contained one of the following:
  - a. 14.25 grams (half ounce) or more of heroin, or a substance containing 14.25 grams or more of heroin, or 14.25 grams or more of a substance containing heroin;
  - b. 28.5 grams (one ounce) or more of Schedule I controlled substances except marijuana, peyote, or psilocybin;
  - c. 10 pounds dry weight or more of marijuana, peyote, or psilocybin;
  - d. 28.5 grams (one ounce) or more of cocaine, cocaine base, or methamphetamine; or a substance containing 28.5 grams or more of cocaine, cocaine base, or methamphetamine;
  - e. 28.5 grams (1 ounce) of a Schedule II substance;
  - f. 57 grams (two ounces) or more of a substance containing cocaine, cocaine base, or methamphetamine
  - g. 28.5 grams (one ounce) or more of Schedule II controlled substances
  - h. The vehicle was purchased with proceeds from narcotics sales.
2. Vehicle information verifying the following:
  - a. The vehicle has no lien holder;
  - b. The suspect is the registered owner, or there is reasonable cause to believe the suspect is the registered owner;
  - c. The registered owner of the vehicle has knowledge that the suspect is a narcotics dealer and gave permission for the suspect to use the vehicle;



- d. There is no community property interest in the vehicle by a person other than the defendant and the vehicle is **not** the sole class C, class M1, or class M2 vehicle available to the defendant/s immediate family.

**D. Other Property**

In cases where other property is seized, refer to the OCSD Asset Forfeiture Manual for seizure details.

**E. Notice of Intended Forfeiture**

1. All persons who declare an interest in any item seized for forfeiture purposes will be served with the appropriate notice form upon seizure of the item, or as soon as practical. This form will describe the item subject to forfeiture and describe the location of the forfeiture. When serving the notice of forfeiture upon any person who may claim an interest in seized funds, the amount seized will be listed. (**Attachment A**)
2. All persons involved in an investigation where assets are seized for forfeiture purposes who claim no interest in the items seized will be given the Sheriff's Asset Disclaimer form to read and sign. (**Attachment B**)

**F. District Attorney Approval**

1. Only the District Attorney's Office can initiate forfeiture proceedings. Therefore, an investigator intending to seize property shall contact the District Attorney's Office, in the county of jurisdiction/origin, and request authority to seize property. The authorization will be obtained prior to the seizure of the property.
2. The seizing investigator shall note the name of the Deputy District Attorney authorizing forfeiture on the Receipt for Seizure and Personal Notice of Intended Forfeiture form. The Proof of Service portion of the form will be completed and the date and time of service will be the date and time the district attorney authorized forfeiture proceedings.

**G. Procedures for Seizing Money per Asset Forfeiture**

1. When money is seized per asset forfeiture, whether it's claimed or disclaimed, the following procedures will be adhered to:
  - a. Cash shall be counted and recorded on a tally sheet at the time of the seizure. The only exceptions are if the seizure is so large it is

not reasonable to do on scene and/ or officer safety is compromised.

- b. Amount shall be verified by a supervisor.
- c. The cash should be sealed in a tamper proof plastic cash deposit bag, with the case number, date, suspect's name and case agents name
- d. The receipt tab will be given to the case agent.
- e. The supervisor will take custody of the cash and either take it directly to Sheriff's Fiscal, or after hours, place the cash in a safe in his/ her office. All cash should be deposited into the appropriate account at Sheriff's Fiscal as soon as reasonably possible.
- f. A copy of the tally sheet from the deposit at Sheriff's Fiscal will be obtained as verification of the deposit and maintained by the unit supervisor.
- g. Both tally sheets will be returned to the case agent to be included in the asset forfeiture packet.
- h. The plastic cash bag will be returned to the case agent to be booked into Sheriff's Evidence.
- i. The Bureau Commander will conduct an annual audit of monies seized (records retained by the supervisor) versus accounting by Sheriff's Fiscal.

**H. Required Notification and Return of Property**

If the SIB Team (i.e. Narcotics, GET Special Operations) involved does not seek to have the seized property forfeited or if the case is rejected, per Health & Safety Code 11488.2 the team involved will:

- 1. Comply with any notice to withhold issued with respect to the property by the Franchise Tax Board.
- 2. If no notice to withhold has been issued with respect to the property by the Franchise Tax Board, return the property to the individual designated in the receipt therefor or if the property is a vehicle, boat, or airplane, it shall be returned to the registered owner.

3. In the matter of currency, a notification will be mailed to the individual named on the property receipt at the individual's last known address informing the individual that he/she may claim the property.
4. In the matter of vehicles, boats or airplanes, a notification will be mailed to the named registered owner informing the registered owner that he/she may claim the property.

# ATTACHMENT A

# ATTACHMENT B

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OFFICE OF THE DISTRICT ATTORNEY  
 ORANGE COUNTY, CALIFORNIA  
**TODD SPITZER, DISTRICT ATTORNEY**  
 401 Civic Center Drive West, Santa Ana, CA 92701

**RECEIPT FOR SEIZURE AND PERSONAL NOTICE OF INTENDED FORFEITURE**

TO: \_\_\_\_\_  
 (name of person from whom property seized)

ON: \_\_\_\_/\_\_\_\_/\_\_\_\_ \_\_\_\_\_  
 (seizure date) (address of seizure)

\_\_\_\_\_, California, Officer \_\_\_\_\_ of \_\_\_\_\_  
 (city) (name) (agency)

**Seized property per Health and Safety Code 11470(f) for forfeiture in connection with violation of the following California Health and Safety Code Sections: (please circle all applicable)**

- 11351 11351.5 11352 11355 11359 11360 11366.8 11378 11378.5 11379 11379.5 11379.6  
 11380 11382 11383 PC182 (conspiracy to violate \_\_\_\_\_) (must be one of the above sections)

The seized property is described as follows:

Property Description	Estimated Value
_____	_____
_____	_____

Pursuant to Section 11488.4 of the California Health and Safety Code, procedures to forfeit this property have been initiated by the Orange County District Attorney's Office. The initiating DDA is \_\_\_\_\_.

If you desire to contest the forfeiture of the property, you must file, within 30 days of the receipt of this Notice, a verified Claim stating your interest in the seized property with the Clerk of the Superior Court, Civil Division, at 700 Civic Center Drive West Room D-110, Santa Ana, California. THE CLAIM FORM IS ATTACHED. Additional claims may be obtained from the Clerk of the Superior Court. See [www.occourts.org](http://www.occourts.org) for more information. You must also provide the District's Attorney's Office with an endorsed copy of the Claim within 30 days of filing your Claim directed to: Deputy-in-Charge, NET Division, 401 Civic Center Drive West, Santa Ana, CA 92701.

If your claim is properly filed, the District Attorney will decide whether to file a Petition for Forfeiture with the Superior Court to contest your claim. In the case where a Petition is filed and contested hearing is held, you will have the following rights which include but are not limited to: the right to use the subpoena powers of the court and order witnesses to attend; the right to testify on your own behalf; the right to submit evidence showing the legitimacy of the seized assets; and the right to cross examine the petitioner's witnesses. This is a civil action. You have the additional right to represent yourself or hire your own attorney and there is no right to appointed counsel in this case. If no claim is properly filed within the time frame allowed, the property will be ordered forfeiture to the State, to be disposed of according to law.

**PROOF OF SERVICE:** I, the undersigned declare that I am over the age of eighteen and not a party to the within action. My business address is: \_\_\_\_\_, California. I declare that I personally served \_\_\_\_\_ with a true copy of this Receipt for Seizure and Personal Notice of Intended Forfeiture, and a Claim Form, on \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_ a.m / p.m. at \_\_\_\_\_, California. I declare under penalty of perjury that the foregoing is true and correct.

Served by: \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_  
 (Name / I.D. No.) (Agency) (Date)

Agency Case No. \_\_\_\_\_ Control No. \_\_\_\_\_

**THIS NOTICE IS YOUR RECEIPT FOR PROPERTY SEIZED (Health and Safety Code Section 11488 (b)).**

(white) District Attorney      (pink) Agency copy      (Canary) Interested Person

ATTORNEY OR PARTY WITHOUT ATTORNEY STATE BAR NUMBER: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	<b>FOR COURT USE ONLY</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
<b>THE PEOPLE OF THE STATE OF CALIFORNIA</b>	
CLAIMED PROPERTY:	
CLAIMANT (NAME):	
<b>CLAIM OPPOSING FORFEITURE (Health &amp; Saf. Code, § 11488.5)</b> <input type="checkbox"/> In response to a judicial petition for forfeiture (use existing case No.) <input type="checkbox"/> In response to notice of administrative proceedings	CASE NUMBER:

1. Claimant (name):  
 is an  individual  corporation  other (specify):
2. Claimed property (describe):
3. Value of claim is  \$5,000 or less  \$5,001 or more (Health & Saf. Code, § 11488.5(a)(3).)

<p><b>NOTICE</b></p> <ol style="list-style-type: none"> <li>1. You must file your claim within 30 days after you receive personal or mailed notice that your property may be forfeited. If you do not receive personal or mailed notice, you must file your claim within 30 days after the last time notice is published in a newspaper.</li> <li>2. Your claim must be filed in the county where the property was seized. If the property was not seized, file your claim in the county where the property is located. If you have received a notice, you can find the address of the court on that notice.</li> <li>3. Within 30 days after filing your claim, serve a copy on the District Attorney or Attorney General. The copy must have the court clerk's filing stamp on it.</li> </ol> <p><b><i>This notice is urgent. If you do not understand it, you must seek help.</i></b></p>	<p><b>AVISO</b></p> <ol style="list-style-type: none"> <li>1. Usted debe presentar su demanda dentro de los 30 días siguientes a la fecha en que recibe, personalmente o por correo, el aviso de que sus bienes pueden ser confiscados. Si no recibe dicho aviso, deberá presentar su reclamo dentro de los 30 días siguientes a la fecha en que el aviso se publica por última vez en un periódico.</li> <li>2. Su demanda debe presentarse en el condado donde fueron confiscados los bienes. Si los bienes no han sido confiscados, presente su demanda en el condado donde están ubicados los bienes. Si ha recibido el aviso, busque la dirección de la corte en el aviso.</li> <li>3. Dentro de los 30 días siguientes a la fecha en que presentó su demanda, envíe una copia de la notificación judicial a la oficina del Fiscal (District Attorney) o del Procurador General (Attorney General). La copia debe llevar el sello del actuario de la corte encargado de recibir las demandas.</li> </ol> <p><b><i>Esta notificación es urgente. Si usted no la entiende, debe pedir ayuda.</i></b></p>
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CLAIMANT (Name): CLAIMED PROPERTY:	CASE NUMBER:
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4. Claimant has an interest in the claimed property. Claimant
- a.  is the owner. *For vehicles (cars, boats, planes, etc.) only:*  registered owner  legal owner
  - b.  has a security interest or is a lien holder  has a right to possess.
  - c.  is the personal representative of the estate of the owner, lessee, or secured party.
  - d.  other (specify):

5. Claimant's interest in the right to or value of the claimed property is
- a.  all  part (specify nature, amount, or percentage):
  
  - b.  unknown.

6. Claimant requests
- a.  that the claimed property not be ordered forfeited.
  - b.  that claimant's interest in the claimed property not be ordered forfeited.
  - c.  costs of suit.
  - d.  other (specify):

7.  Number of pages attached: \_\_\_\_\_

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

\_\_\_\_\_  
(TYPE OR PRINT NAME)

▶ \_\_\_\_\_  
(SIGNATURE OF CLAIMANT)

**VERIFICATION**

I am the claimant in this proceeding and have read this claim. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

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

▶ \_\_\_\_\_  
(SIGNATURE OF CLAIMANT)



**DISCLAIMER OF OWNERSHIP AND WAIVER OF NOTICE**

Seizing Agency: \_\_\_\_\_ Seizing Officer: \_\_\_\_\_

Case Agent: \_\_\_\_\_ Date of Seizure: \_\_\_\_\_

Type:  H&S 11470  PC 186.2  PC 186.11  PC 236.6  PC 598.1  PC 502  Other \_\_\_\_\_

Person Disclaiming: \_\_\_\_\_

Address: \_\_\_\_\_

License No.: \_\_\_\_\_ State \_\_\_\_\_ DOB: \_\_\_\_\_ Gender:  M  F

**1st Property Seized\*:** \_\_\_\_\_

Place of Seizure (Address/Highway/Intersection): \_\_\_\_\_

Per SW?  Y  N SW Number \_\_\_\_\_ Property found in Series \_\_\_\_\_

On person?  Y  N Where on person: \_\_\_\_\_

In Vehicle?  Y  N Lic No: \_\_\_\_\_ Yr/Make/Model: \_\_\_\_\_

Location in Vehicle (Check all that apply):  Front Console  Glove Box  Rear Console  Trunk

Tire / Wheel Cover (Which) \_\_\_\_\_  Door Panel (Which) \_\_\_\_\_

Seat:  Front Driver  Front Passenger  Rear Driver  Rear Passenger  Under Seat  Between Seats

Hidden Compartment / Other \_\_\_\_\_

In Building?  Y  N: Residential?  Y  N Commercial?  Y  N Other: \_\_\_\_\_

Type:  House  Apartment Bldg  Office  Retail (Stand Alone)  Strip Mall  Industrial Bldg  Bar

Other: \_\_\_\_\_

Room:  Living Room  Kitchen  Garage  Dining Room  Hall Closet  Bedroom \_\_\_\_\_

Bathroom  Office  Cashier's Counter  Bar Area  Utility Closet  Employee Area  Safe  Attic

Other \_\_\_\_\_

Other Area: \_\_\_\_\_

Location of Person Disclaiming to Property: \_\_\_\_\_

**2nd Property Seized\*:** \_\_\_\_\_

Place of Seizure (Address/Highway/Intersection): \_\_\_\_\_

Per SW?  Y  N SW Number \_\_\_\_\_ Property found in Series \_\_\_\_\_

On person?  Y  N Where on person: \_\_\_\_\_

In Vehicle?  Y  N Lic No: \_\_\_\_\_ Yr/Make/Model: \_\_\_\_\_

Location in Vehicle (Check all that apply):  Front Console  Glove Box  Rear Console  Trunk

Tire / Wheel Cover (Which) \_\_\_\_\_  Door Panel (Which) \_\_\_\_\_

Seat:  Front Driver  Front Passenger  Rear Driver  Rear Passenger  Under Seat  Between Seats

Hidden Compartment / Other \_\_\_\_\_

In Building?  Y  N: Residential?  Y  N Commercial?  Y  N Other: \_\_\_\_\_

Type:  House  Apartment Bldg  Office  Retail (Stand Alone)  Strip Mall  Industrial Bldg  Bar

Other: \_\_\_\_\_

Room:  Living Room  Kitchen  Garage  Dining Room  Hall Closet  Bedroom \_\_\_\_\_

Bathroom  Office  Cashier's Counter  Bar Area  Utility Closet  Employee Area  Safe  Attic

Other \_\_\_\_\_

Other Area: \_\_\_\_\_

Location of Person Disclaiming to this Property: \_\_\_\_\_

Additional property seized is listed on continuation page(s). Number of continuation pages: \_\_\_\_\_

\* / Particularly describe the property seized: Yr/Make/Model/VIN/ Lic. No. of Vehicle; Amount of Currency, U.S. or other; Make of Watch, Men's or Women's; Address of Real Property; Type (necklace, ring, bracelet) and color (gold, white, silver, etc.) of jewelry; and so forth.

## DISCLAIMER OF OWNERSHIP AND WAIVER OF NOTICE

I know that this Disclaimer and Waiver applies to the property listed on the front side of this document, and to all the property listed in any attached continuation pages.

I understand that the above property was seized by law enforcement officers from the locations indicated. I understand that I may have an ownership interest in the property; or a right to claim the property as my own or as an agent for another person.

I know I have a right to receive notice of any seizure or forfeiture proceeding which may be commenced by a California District Attorney, the California Attorney General, or the United States. I know I have a right to be served with all court papers, including the complaint or petition, notices of hearing, applications for judgment, and judgments and orders, in any court action over the seizure or forfeiture of the property.

I know I have a right to file a claim opposing forfeiture in which I can claim that I have an interest in the property being seized, and to have my claim opposing forfeiture heard in court. *In a contested court hearing I will have the following rights which include but are not limited to: I have the right to use the subpoena powers of the court and order witnesses to attend, I have the right to testify on my own behalf, the right to submit evidence on my claim showing the legitimacy of the seized assets, and a right to call witnesses, to cross-examine petitioner's witnesses, to present documents supporting my claim, and to have my claim tried before a jury. This is a civil action. I have the additional right to represent myself or hire my own attorney, and there is no right to appointed counsel in this case.* I further understand that I would also have the right to file an appeal from an adverse ruling on my claim.

I have had sufficient time to think about these rights and what I'm doing regarding the property before signing this Disclaimer.

I am making this disclaimer and waiver freely and voluntarily. I further understand that if I do make a claim for this property, this Disclaimer and Waiver can be used against me in any seizure or forfeiture proceeding.

**Initial** - Understanding each of these rights:

\_\_\_\_\_  
(initial) I GIVE UP, DISCLAIM, RELINQUISH, ABANDON, AND WAIVE ANY AND ALL RIGHTS I MAY HAVE IN THE PROPERTY DESCRIBED ABOVE AND IN THE ATTACHED CONTINUATION PAGE(S) (IF ANY), CONSENT TO THE SEIZURE AND FORFEITURE OF THE PROPERTY AND MAKE NO CLAIM FOR ITS RETURN TO ME. BY MAKING THIS DISCLAIMER, I UNDERSTAND THAT IT HAS THE SAME EFFECT AS MY STATING THAT I HAVE NO INTEREST IN THE PROPERTY.

\_\_\_\_\_  
(initial) I FURTHER GIVE UP, WAIVE, RELINQUISH AND ABANDON THE RIGHT TO RECEIVE ANY NOTICE THAT I MAY BE ENTITLED TO RECEIVE CONCERNING THE SEIZURE AND FORFEITURE OF THE ABOVE DESCRIBED PROPERTY, AND GIVE UP AND WAIVE ANY RIGHT I MAY HAVE TO BE SERVED WITH ANY NOTICE OR COURT PAPER OR PROCESS REGARDING THE FORFEITURE OF THE PROPERTY.

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

Thumb Print

\_\_\_\_\_  
Signature of Person Disclaiming

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Printed Name of Person Disclaiming

\_\_\_\_\_  
Printed Name of Witness

**DISCLAIMER OF OWNERSHIP AND WAIVER OF NOTICE**  
**Continuation Page No. \_\_\_\_\_**

Name of Person Disclaiming: \_\_\_\_\_

**Property Seized\*:** \_\_\_\_\_

Place of Seizure (Address/Highway/Intersection): \_\_\_\_\_

Per S/W? Y N S/W Number \_\_\_\_\_ Property found in Series \_\_\_\_\_

On person? Y N Where on person: \_\_\_\_\_

In Vehicle? Y N Lic No: \_\_\_\_\_ Yr/Make/Model: \_\_\_\_\_

Location in Vehicle (Check all that apply):  Front Console  Glove Box  Rear Console  Trunk

Tire / Wheel Cover (Which) \_\_\_\_\_  Door Panel (Which) \_\_\_\_\_

Seat:  Front Driver  Front Passenger  Rear Driver  Rear Passenger  Under Seat  Between Seats

Hidden Compartment / Other \_\_\_\_\_

In Building? Y N: Residential? Y N Commercial? Y N Other: \_\_\_\_\_

Type:  House  Apartment Bldg  Office  Retail (Stand Alone)  Strip Mall  Industrial Bldg  Bar

Other: \_\_\_\_\_

Room:  Living Room  Kitchen  Garage  Dining Room  Hall Closet  Bedroom \_\_\_\_\_

Bathroom  Office  Cashier's Counter  Bar Area  Utility Closet  Employee Area  Safe  Attic

Other \_\_\_\_\_

Other Area: \_\_\_\_\_

Location of Person Disclaiming to this Property: \_\_\_\_\_

**Property Seized\*:** \_\_\_\_\_

Place of Seizure (Address/Highway/Intersection): \_\_\_\_\_

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On person? Y N Where on person: \_\_\_\_\_

In Vehicle? Y N Lic No: \_\_\_\_\_ Yr/Make/Model: \_\_\_\_\_

Location in Vehicle (Check all that apply):  Front Console  Glove Box  Rear Console  Trunk

Tire / Wheel Cover (Which) \_\_\_\_\_  Door Panel (Which) \_\_\_\_\_

Seat:  Front Driver  Front Passenger  Rear Driver  Rear Passenger  Under Seat  Between Seats

Hidden Compartment / Other \_\_\_\_\_

In Building? Y N: Residential? Y N Commercial? Y N Other: \_\_\_\_\_

Type:  House  Apartment Bldg  Office  Retail (Stand Alone)  Strip Mall  Industrial Bldg  Bar

Other: \_\_\_\_\_

Room:  Living Room  Kitchen  Garage  Dining Room  Hall Closet  Bedroom \_\_\_\_\_

Bathroom  Office  Cashier's Counter  Bar Area  Utility Closet  Employee Area  Safe  Attic

Other \_\_\_\_\_

Other Area: \_\_\_\_\_

Location of Person Disclaiming to this Property: \_\_\_\_\_

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

\_\_\_\_\_  
**Initials of Person  
Disclaiming**

\_\_\_\_\_  
**Initials of Witness**

\*/ Particularly describe the property seized: Yr/Make/Model/VIN/ Lic. No. of Vehicle; Amount of Currency, U.S. or other; Make of Watch, Men's or Women's; Address of Real Property; Type (necklace, ring, bracelet) and color (gold, white, silver, etc.) of jewelry; and so forth.

**DISCLAIMER OF OWNERSHIP AND WAIVER OF NOTICE**  
**Continuation Page No. \_\_\_\_\_**

Name of Person Disclaiming: \_\_\_\_\_  
\_\_\_\_\_ **Property Seized\*:** \_\_\_\_\_

Place of Seizure (Address/Highway/Intersection): \_\_\_\_\_

Per S/W?  Y  N S/W Number \_\_\_\_\_ Property found in Series \_\_\_\_\_

On person?  Y  N Where on person: \_\_\_\_\_

In Vehicle?  Y  N Lic No: \_\_\_\_\_ Yr/Make/Model: \_\_\_\_\_

Location in Vehicle (Check all that apply):  Front Console  Glove Box  Rear Console  Trunk  
 Tire / Wheel Cover (Which) \_\_\_\_\_  Door Panel (Which) \_\_\_\_\_

Seat:  Front Driver  Front Passenger  Rear Driver  Rear Passenger  Under Seat  Between Seats  
 Hidden Compartment / Other \_\_\_\_\_

In Building?  Y  N: Residential?  Y  N Commercial?  Y  N Other: \_\_\_\_\_

Type:  House  Apartment Bldg  Office  Retail (Stand Alone)  Strip Mall  Industrial Bldg  Bar  
 Other: \_\_\_\_\_

Room:  Living Room  Kitchen  Garage  Dining Room  Hall Closet  Bedroom \_\_\_\_\_

Bathroom  Office  Cashier's Counter  Bar Area  Utility Closet  Employee Area  Safe  Attic  
 Other \_\_\_\_\_

Other Area: \_\_\_\_\_

Location of Person Disclaiming to this Property: \_\_\_\_\_

\_\_\_\_\_ **Property Seized\*:** \_\_\_\_\_

Place of Seizure (Address/Highway/Intersection): \_\_\_\_\_

Per S/W?  Y  N S/W Number \_\_\_\_\_ Property found in Series \_\_\_\_\_

On person?  Y  N Where on person: \_\_\_\_\_

In Vehicle?  Y  N Lic No: \_\_\_\_\_ Yr/Make/Model: \_\_\_\_\_

Location in Vehicle (Check all that apply):  Front Console  Glove Box  Rear Console  Trunk  
 Tire / Wheel Cover (Which) \_\_\_\_\_  Door Panel (Which) \_\_\_\_\_

Seat:  Front Driver  Front Passenger  Rear Driver  Rear Passenger  Under Seat  Between Seats  
 Hidden Compartment / Other \_\_\_\_\_

In Building?  Y  N: Residential?  Y  N Commercial?  Y  N Other: \_\_\_\_\_

Type:  House  Apartment Bldg  Office  Retail (Stand Alone)  Strip Mall  Industrial Bldg  Bar  
 Other: \_\_\_\_\_

Room:  Living Room  Kitchen  Garage  Dining Room  Hall Closet  Bedroom \_\_\_\_\_

Bathroom  Office  Cashier's Counter  Bar Area  Utility Closet  Employee Area  Safe  Attic  
 Other \_\_\_\_\_

Other Area: \_\_\_\_\_

Location of Person Disclaiming to this Property: \_\_\_\_\_

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

\_\_\_\_\_  
**Initials of Person  
Disclaiming**

\_\_\_\_\_  
**Initials of Witness**

\* / Particularly describe the property seized: Yr/Make/Model/VIN/ Lic. No. of Vehicle; Amount of Currency, U.S. or other; Make of Watch, Men's or Women's; Address of Real Property; Type (necklace, ring, bracelet) and color (gold, white, silver, etc.) of jewelry; and so forth.

**INVESTIGATIONS DIVISION  
SPECIAL INVESTIGATIONS BUREAU  
ORANGE COUNTY SHERIFF-CORONER DEPARTMENT**

**SECTION: 1-6**

**SUBJECT: DRUG RELEASE POLICY AND PROCEDURES**

**I. CONCEPTS AND ISSUES**

**A. Purpose**

The purpose of this section is to provide guidelines in which to access Sheriff's Property narcotics for the purpose of narcotics investigations and canine training.

**B. Accountability**

It is imperative that these guidelines be followed to ensure proper handling and accountability of narcotics in the care and control of the Orange County Sheriff's Department. These guidelines will limit any liabilities to the Department or personnel involved.

**II. POLICY**

It shall be the policy of Special Investigations Bureau personnel to follow the guidelines as outlined in the Procedures section below when requesting the use of narcotics from Sheriff's Property.

**III. PROCEDURES**

**A. Court Order**

The requesting agency will obtain a Court order (Ex-Parte Order) availing illicit drugs for purposes of a Reverse Undercover Buy Program or for training of law enforcement officers assigned to their Narcotic Detection Canine Unit, with the court order containing the following language;

1. Order *shall* include the specific types and amounts of narcotics requested.

a. ***Reverse Undercover Buy Program:***

- (1) Order *shall* state: At the conclusion of the usefulness of the controlled substances, they *shall* be returned to the OCSD Property/Evidence Detail for destruction or be rebooked as evidence under the new case. If narcotics are to be booked at another agency of jurisdiction for criminal prosecution, a copy of the new Forensic Analysis Report will be submitted to the Sheriff's Property/Evidence Detail within 90 days to close the item(s) out of the Property/Evidence tracking system.
- (2) In addition to a court order, release of narcotics for the purposes of an undercover operation will require a letter on agency letterhead or an Intra-Department memo signed by a Division Commander or of higher rank authorizing the release.
- (3) Authorization by the Assistant District Attorney in charge of Felony Projects 2.
- (4) Written declaration by the case agent that describes the nature of the investigation, the current status of the investigation, the objective of the reverse sting investigation, the date and location of the proposed transaction, procedures for ensuring the safety of the public, procedures for ensuring the security of the contraband, and the methods to be utilized in obtaining the objectives of the reverse sting operation.

b. ***Narcotic Detection Canine Program:***

- (1) Order *shall* state: At the conclusion of the usefulness of the controlled substances, they *shall* be returned to the OCSD Property/Evidence Detail for destruction.
- (2) Narcotics released to the Narcotic Detection Canine Unit shall not exceed two (2) ounces of each substance per canine handler.

2. Order *shall* identify the name of the officer retaining narcotics, or the name(s) of each canine and officer that will be retaining the narcotic training aids.

3. Prior to obtaining a court order, agency representative will contact OCSD Property/Evidence staff at (714) 834-6482 to obtain adjudicated case information needed to specify which case and what types of controlled substances are to be used. The court order will include the case name and Court Case number, if applicable, the OCSD Case number, and type of substance.
4. The OCSD Crime Lab *shall* test and retain a representative sample of each substance prior to the release of narcotics to named officers, with the remainder of the controlled substances returned to the OCSD Property/Evidence Detail for destruction.
5. Under no circumstances shall the narcotic training aids be transferred from one officer to another prior to its return to the OCSD Property/Evidence Detail.

**B. Release of Drugs**

1. Release of narcotics from the OCSD Property/Evidence Detail *shall* occur in accordance with a Court Order. Before release, the requested kind and amount of drugs will be tested by OCSD Crime Lab regarding quantity and quality of substance, and then placed in an identifiable package that is properly sealed with the date, case number and initials of the Forensic member who sealed the package. Forensic staff will then book in the new items (including samples) in Remedy as new items of evidence under the original case number, and return all items to the Property/Evidence Detail.
2. The Property/Evidence Detail will store the samples in the large vault, and arrange for release of the narcotics or training aids to the respective officers listed in the court order. Each officer will be responsible for signing for, retaining custody and control of all narcotics or training aids (narcotic samples) issued to them until they are returned to the OCSD Property/Evidence Detail for destruction.
3. Officers in possession of narcotic training aids will NOT open, alter, or remove narcotics from the pre-packaging as prepared by OCSD Crime Lab. If any further subdividing of existing training aids needs to be done, they will be returned to the OCSD Property/Evidence Detail with a request to have OCSD Crime Lab make the necessary changes.

**C. Return of Drugs**

1. Narcotics *shall* be returned to the OCSD Property/Evidence Detail in the original evidence envelope or package with bar code labels still attached. The package will be properly sealed with the date and signature of the officer sealing the package over the top of the seals. Narcotics will be returned directly to the OCSD Property/Evidence Detail supervisor or representative during regular business hours, Monday through Friday, 0700-1700 hours and will **not** be placed in an evidence locker.
2. The Property/Evidence staff will have each package of narcotics or training aids (original samples) returned to the OCSD Crime Lab for retesting before any additional narcotics will be issued pursuant to a new court order. If there are any discrepancies in the quantity or quality of controlled substances tested, the Property/Evidence Detail supervisor will immediately notify the Support Services Division Commander and contact the supervisor of the named officers for further investigation regarding the discrepancy.



**INVESTIGATIONS DIVISION  
SPECIAL INVESTIGATIONS BUREAU  
ORANGE COUNTY SHERIFF-CORONER DEPARTMENT**

**SECTION: 1-7**

**SUBJECT: USE OF DEPARTMENTAL AIRCRAFT**

**I. INTRODUCTION**

Departmental aircraft may be utilized in conjunction with routine Sheriff's Aviation Support Unit law enforcement patrol. Aircraft support may be requested for use by Special Investigations Bureau personnel regarding surveillance and marijuana eradication.

The Orange County Sheriff's Department Aviation Support Unit operates under the parameters outlined in Section 54 of the Field Operations Manual (FOM). Special Investigations Bureau personnel should be familiar with this section of the FOM as it provides guidelines regarding limitations of aircraft, such as weather, terrain, etc.; and procedures when flying in an investigative capacity.

**II. POLICY**

**A. Air Support Bureau**

1. Requests for assistance are made by the unit supervisor.
2. When extended operations are anticipated, consideration should be given to request a second crew and aircraft to allow for the normal patrol operation crew to remain in service.
3. Aerial photography or air coverage during a search warrant can be requested by the investigator and made directly to Aviation Support Section personnel.

**INVESTIGATIONS DIVISION  
SPECIAL INVESTIGATIONS BUREAU  
ORANGE COUNTY SHERIFF-CORONER DEPARTMENT**

**SECTION: 2-1**

**SUBJECT: VEHICLE USE POLICY**

For additional information see OCSD Policy Manual, Section 706

**PURPOSE**

The purpose of this policy is to provide procedures for use of Bureau assigned vehicles.

**1. Vehicle Assignment and Take Home Policy**

Special Investigation Bureau Personnel will be assigned an undercover vehicle (County rental vehicle). Personnel will comply with the Vehicle Use Policy in Section 706 of the Orange Sheriff's Department Policy Manual and the guidelines set below.

- A.** County Rental Vehicles: The Sheriff's Department currently maintains contracts with two vehicle rental agencies. The Special Investigation Bureau Lieutenant, Sergeants and investigators/deputies will be issued a rental vehicle for use while conducting county business. The designated liaison between the details and the rental agency will be the North Narcotics investigative aide. Except under emergency conditions, investigators/deputies will not contact the vehicle rental agencies for the purpose of obtaining an exchange vehicle. In the absence of the investigative aide, investigators will contact the detail supervisor should a problem or issue exist regarding a rental vehicle.
- B.** Rental vehicle use shall conform to Departmental Policy as outlined in the "Assigned Vehicle Acknowledgement" Form. (**Attachment A**)

**2. Legal Requirements**

Vehicles will be operated in a safe manner and in compliance with the law, with the exception of the provisions provided under the policies relating to Emergency Vehicle Operations and Vehicle Pursuit. The Department's Rules and Regulations specify:

- a.** Members shall observe and obey all laws and ordinances, all rules/regulations, procedures and policies of the department and all orders of the department or commands thereof. In the event of improper action or breach of discipline, it will be presumed that the member was familiar

with the law, rule/regulation, procedure or policy in question. Furthermore, an Assigned Vehicle Acknowledgment form must be signed and on record for all assigned vehicles as an acknowledgment of Department Rules and Regulations that apply to the Vehicle Use Policy.

- b. Alcohol and Medication. Bureau personnel shall not operate a department vehicle if they have taken any medication or consumed an alcoholic beverage, or combination thereof, that would tend to adversely affect their mental or physical abilities.
- c. Assigned Bureau Personnel are responsible for all tickets received on the vehicle while assigned to them. If for some reason the vehicle was out of their possession, for any reason, (i.e., vacation, in for maintenance, loaned out for a day) it is the responsibility of the investigator assigned to the vehicle to note those days and advise the unit supervisor.

### **3. Vehicular Accidents**

Bureau Personnel operating a department vehicle involved in a traffic accident shall notify their direct supervisor immediately. The collision shall be reported to the law enforcement agency having traffic investigation and enforcement responsibilities. ECB shall be notified as soon as practical informing them of the incident. Members involved shall promptly prepare the necessary written report.

### **4. Assigned Vehicle Acknowledgement**

All Special Investigations Bureau Personnel shall read and sign the attached vehicle acknowledgement form regarding Rules and Regulations for Official Use Policy.

### **5. Transporting of In-custody subjects in UC vehicles or vehicles without cages**

Sworn personnel transporting arrestee/suspect in unmarked department vehicles not equipped with a cage partition, must have the arrestee/suspect handcuffed behind their back placed in the passenger side rear seat with the seat belt secured. There will be a second Deputy or Investigator directly behind the driver of the vehicle in the rear seat for officer safety reasons.

Sworn personnel transporting arrestees/suspects in unmarked department vehicles not equipped with a cage partition, may Hobble and transport arrestees/suspects who are cooperative, as an added security measure, to reduce the likelihood of escape, and for officer safety reasons (e.g., the transportation of arrestees/suspects by plain clothes personnel driving unmarked department vehicles).

However, If the arrestee/suspect is combative, has a mental health disorder, under the influence of alcohol or narcotics that arrestee/suspect will be transported by a department vehicle equipped with a cage partition.

# ATTACHMENT A

## Assigned Vehicle Acknowledgement

### **Purpose**

The following established Department policies as stated in the Rules and Regulations Manual are intended to reinforce the need to operate Department assigned vehicles in an appropriate, lawful manner. Department vehicles are to be assigned for business-related purposes. Employees will use and may be assigned Department vehicles in the course and scope of their duties to further the Department's mission, operational goals, and objectives. Vehicles may also be assigned to executive staff members or the Sheriff as part of a negotiated compensation package. Vehicles will be assigned to fulfill a business need and shall not be used to provide additional compensation or personal benefit unless the vehicle is assigned as part of a compensation package. With the exception of those personnel assigned vehicles as part of a compensation package, Department vehicles may not be used for personal use other than commuting or minimal personal use such as a stop for a personal errand on the way between work and home.

### **Department Rules and Regulations Appendix D - Official Vehicle Use Policy**

**I Vehicles Defined** - For the purposes of this section, the term vehicle shall apply to any car, truck, van or motorcycle owned, leased, rented or otherwise assigned to the Department.

**II Assignment of Vehicles** - Vehicles will be assigned for use under the following two categories:

1. **Specific Use:** Division Commanders may assign a vehicle to an individual to fulfill a specific business need or purpose.
2. **Divisional Pool:** Division Commanders will assign vehicles to a pool to be used for business purposes by divisional employees, details, and sub-units.

**III Legal Requirements** - Vehicles will be operated in a safe manner and in compliance with the law, with the exception of the provisions provided under the policies relating to Emergency Vehicle Operations and Vehicle Pursuit.

**IV Out of County Travel / Commuting** - Out of County travel within the contiguous counties is authorized for business purposes. Extended or overnight travel in an assigned Department vehicle shall be approved by the employee's Division Commander. Personnel shall obtain the approval of their Assistant Sheriff before driving a Department vehicle out of the County to their home.

**V Overnight /After Hours /Take Home** - Division Commanders and Directors are authorized to retain their vehicles after hours and take them home. They are expected to be available and respond directly to fulfill operational needs at the direction of the Sheriff, Undersheriff or Assistant Sheriffs. Employees assigned a canine partner kenneled at their home are authorized the use of a Department vehicle for the safe transport of the canine asset between their home and work location. Assistant Sheriffs may authorize subordinates to take their assigned Department vehicles home under the following guidelines:

1. The employee must be immediately and continuously available to respond directly from his or her home to a non-work site location and any delay in response would significantly hinder or impact operations.
2. Out of County travel / commuting provisions are followed. Before authorization is provided for take home use, Division Commanders shall ensure that:
  - a. The use of a take home vehicle fulfills an operational need or provides a business benefit.
  - b. The cost of providing a take home vehicle does not outweigh the business benefit or operational need.

Division Commanders and Assistant Sheriffs shall review the use of Department vehicles in their commands on a quarterly basis to ensure all take home vehicles are used in accordance with this policy. All other personnel shall park their Department vehicles at their primary work location or an alternate parking location noted below:

1. Central County workstations: The rear lot of the Theo Lacy Facility or in the front gate area of the Musick Facility.

2. South County workstations: The front gate area of the Musick Facility or in the city hall lot of a contract city.

3. Loma Ridge: The lower parking lot of the facility.

4. Alternate Parking: Alternate parking locations may be identified and approved by an Assistant Sheriff.

The assigned after-hours parking location or the use of alternate parking locations shall be reported to the Transportation Bureau Lieutenant as part of the mileage reporting process to ensure the Department has accountability and access in case of an emergency.

**VI Intentionally Omitted**

**VII Vehicular Accidents** - Members operating a County vehicle involved in a traffic accident shall notify Sheriff's Dispatch immediately. The Patrol Sergeant, who may, if necessary, require the dispatch of a photographer and a unit from the department in whose jurisdiction the accident occurred. Members involved shall promptly prepare the necessary written report.

**Department Rules and Regulations Title 3 Section 31.06.0 - Obedience to Laws and Regulations**

.1 Members shall observe and obey all laws and ordinances, all rules/regulations, procedures and policies of the Department and all orders of the Department or divisions thereof. In the event of improper action or breach of discipline, it will be presumed that the member was familiar with the law, rule/regulation, procedure or policy in question.

**Department Rules and Regulations Title 3 Section 31.35.0 - Use of Alcohol**

.1 Members of the department shall not report for or be on duty while under the influence of an alcoholic beverage or drugs or be unable to effectively carry out their duties and responsibilities because of their use. The odor of an alcoholic beverage on the breath or person will be considered presumptive evidence of a violation of this section. No member shall drink any alcoholic beverage while on duty except when necessarily consumed in the line of duty.

.2 Members, on or off duty, will not display uniform insignia or badges during the purchase of alcoholic beverages.

.3 Members shall not drive a county vehicle while under the influence of alcohol or drugs (other than prescription drugs at recommended levels that do not impair the operation of a motor vehicle).

**Department Rules and Regulations Title 3 Section 31.36.0 - Intoxicants on Departmental Premises**

.1 Alcoholic beverages shall not be brought onto departmental premises except in furtherance of a law enforcement task or department approved activity.

**ACKNOWLEDGMENT**

I have read, and acknowledge receipt of the policies pertaining to Department assigned vehicles. I understand this is a reinforcement of current policies as stated in the Department Rules and Regulations Manual and failure to comply may result in disciplinary action.

Printed Name: \_\_\_\_\_

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

## Assigned Vehicle Acknowledgement

### **Purpose**

The following established Department policies as stated in the Rules and Regulations Manual are intended to reinforce the need to operate Department assigned vehicles in an appropriate, lawful manner. Department vehicles are to be assigned for business-related purposes. Employees will use and may be assigned Department vehicles in the course and scope of their duties to further the Department's mission, operational goals, and objectives. Vehicles may also be assigned to executive staff members or the Sheriff as part of a negotiated compensation package. Vehicles will be assigned to fulfill a business need and shall not be used to provide additional compensation or personal benefit unless the vehicle is assigned as part of a compensation package. With the exception of those personnel assigned vehicles as part of a compensation package, Department vehicles may not be used for personal use other than commuting or minimal personal use such as a stop for a personal errand on the way between work and home.

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**V Overnight /After Hours /Take Home** - Division Commanders and Directors are authorized to retain their vehicles after hours and take them home. They are expected to be available and respond directly to fulfill operational needs at the direction of the Sheriff, Undersheriff or Assistant Sheriffs. Employees assigned a canine partner kenneled at their home are authorized the use of a Department vehicle for the safe transport of the canine asset between their home and work location. Assistant Sheriffs may authorize subordinates to take their assigned Department vehicles home under the following guidelines:

1. The employee must be immediately and continuously available to respond directly from his or her home to a non-work site location and any delay in response would significantly hinder or impact operations.
2. Out of County travel / commuting provisions are followed. Before authorization is provided for take home use, Division Commanders shall ensure that:
  - a. The use of a take home vehicle fulfills an operational need or provides a business benefit.
  - b. The cost of providing a take home vehicle does not outweigh the business benefit or operational need.

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The assigned after-hours parking location or the use of alternate parking locations shall be reported to the Transportation Bureau Lieutenant as part of the mileage reporting process to ensure the Department has accountability and access in case of an emergency.

#### **VI Intentionally Omitted**

**VII Vehicular Accidents** - Members operating a County vehicle involved in a traffic accident shall notify Sheriff's Dispatch immediately. The Patrol Sergeant, who may, if necessary, require the dispatch of a photographer and a unit from the department in whose jurisdiction the accident occurred. Members involved shall promptly prepare the necessary written report.

#### **Department Rules and Regulations Title 3 Section 31.06.0 - Obedience to Laws and Regulations**

.1 Members shall observe and obey all laws and ordinances, all rules/regulations, procedures and policies of the Department and all orders of the Department or divisions thereof. In the event of improper action or breach of discipline, it will be presumed that the member was familiar with the law, rule/regulation, procedure or policy in question.

#### **Department Rules and Regulations Title 3 Section 31.35.0 - Use of Alcohol**

.1 Members of the department shall not report for or be on duty while under the influence of an alcoholic beverage or drugs or be unable to effectively carry out their duties and responsibilities because of their use. The odor of an alcoholic beverage on the breath or person will be considered presumptive evidence of a violation of this section. No member shall drink any alcoholic beverage while on duty except when necessarily consumed in the line of duty.

.2 Members, on or off duty, will not display uniform insignia or badges during the purchase of alcoholic beverages.

.3 Members shall not drive a county vehicle while under the influence of alcohol or drugs (other than prescription drugs at recommended levels that do not impair the operation of a motor vehicle).

#### **Department Rules and Regulations Title 3 Section 31.36.0 - Intoxicants on Departmental Premises**

.1 Alcoholic beverages shall not be brought onto departmental premises except in furtherance of a law enforcement task or department approved activity.

#### **ACKNOWLEDGMENT**

I have read, and acknowledge receipt of the policies pertaining to Department assigned vehicles. I understand this is a reinforcement of current policies as stated in the Department Rules and Regulations Manual and failure to comply may result in disciplinary action.

Printed Name: \_\_\_\_\_

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

**INVESTIGATIONS DIVISION  
SPECIAL INVESTIGATIONS BUREAU  
ORANGE COUNTY SHERIFF-CORONER DEPARTMENT**

**SECTION: 2-2**

**SUBJECT: COMMUNICATIONS AND SAFETY EQUIPMENT USE**

**I. CONCEPT AND ISSUES**

**A. Purpose**

The purpose of this policy is to provide procedures for the field use of communications and safety equipment issued to Special Investigations Bureau personnel. Officer safety is of paramount concern during field operations regarding Bureau investigations.

**B. Scope of Policy**

This policy pertains to all Special Investigations Bureau personnel.

**C. Accountability**

The Special Investigations Bureau Lieutenant and unit sergeants are responsible for ensuring Special Investigations Bureau personnel are aware of this policy.

**II. POLICY**

All Special Investigations Bureau personnel are issued communications and safety equipment including cell phones, car mounted radios and / or portable radios, protective personal body armor, ballistic helmets, firearms, protective ballistic entry vests, badges and identification cards, handcuffs, OC spray, batons, TASERs and identifying outerwear, e.g. raid jackets, marked vest covers, etc. to readily identify themselves as peace officers to the public.

**A. Radios**

Departmental issued radios, car mounted or portable, is the primary communications devices used during tactical field operations (e.g., surveillances, search warrants, buy/busts, etc.) and shall be used during tactical operations.

Any Emergency broadcasts (vehicle or foot pursuits, officer involved shootings, etc.) shall be made using a department radio over the appropriate channel. While

cell phones can assist in communications when there is poor reception for departmental radios, for security reasons, the departmental radio is the main communications device.

During tactical operations, field personnel shall have a radio at their immediate disposal tuned to the designated frequency for that operation. Exceptions to this would be for under-cover personnel whose cover might be compromised if carrying a radio. However supporting field personnel should be equipped with departmental radios to update surveillance personnel of the activities and provide emergency radio traffic if needed.

**B. Cell Phones**

Cell phones are issued to deputies for routine communications. As stated above, communications for tactical operations will be the departmental radio.

**C. Protective personal body armor, firearms, less lethal weapons, handcuffs, and identification items**

While conducting any field operation, personnel shall have at their immediate disposal, their department safety and communication equipment and identification items. These include, body armor, firearm, handcuffs, badge identification, outerwear signifying law enforcement personnel (raid jacket or vest cover with law enforcement identification). Personnel should also have one authorized less lethal weapon (OC spray, impact weapon, or TASER).

Field operations include surveillance. Situations can change to where immediate police action is required. Because of this it is important that surveillance personnel and other operations personnel have their equipment at hand to respond in a quick manner.

Whenever conducting field operations involving arrests, suspect contacts, search warrants, etc., all Special Investigations personnel will wear clearly identifiable markings with the word, "Sheriff" on the front and back. Green entry vest covers, raid jackets and black nylon tactical entry vests meet these criteria.

Special Investigations Bureau personnel shall wear appropriate tactical gear deemed necessary for the operation, to include but not limited to, ballistic helmets, entry/tactical vests, raid jackets, etc.

**D. Maintenance of Equipment**

It is the responsibility of Special Investigations Bureau personnel to assure all issued equipment is maintained in good, safe and functional condition.

**INVESTIGATIONS DIVISION  
SPECIAL INVESTIGATIONS BUREAU  
ORANGE COUNTY SHERIFF-CORONER DEPARTMENT**

**SECTION: 2-3**

**SUBJECT: SPECIALIZED WEAPONS - BENELLI SHOTGUN, COLT M4**

**I. CONCEPT AND ISSUES**

**A. Purpose**

The purpose of this policy is to establish guidelines in the use and training for those authorized Specialized Weapons for the Special Investigations Bureau.

**B. Background**

Bureau personnel are routinely involved in narcotics and gang investigations. Because of the nature of these types of investigations and the increased propensity of armed conflicts with suspects involved; the weapons outlined in this section have been approved for use by Special Investigations Bureau personnel.

**C. Scope of Policy**

This policy establishes the guidelines and procedures involving the use and training of these weapons and applies to all Special Investigations Bureau personnel.

**D. Accountability**

Only those Bureau personnel who have successfully completed the required training will be allowed to deploy these weapons.

**II. POLICY**

The following below outlines the Policy and Procedures regarding Special Investigations Bureau shoulder-mounted weapons.

**A. Special Investigations Bureau (SIB) Authorized Special Weapons**

1. Colt M4 and M4A1 Carbine (5.56mm, assault rifle)
2. Benelli Shotgun M-1 Super 90 (12 gauge semi-automatic)
3. Remington 870 (12 gauge w/tactical sights and stocks)

4. Heckler & Koch SP89 9mm

**B. Guidelines**

All Special Investigations Bureau units have additional special weapons that may include Benelli Shotguns, and Colt M4 rifles. Each Bureau detail is assigned one 16-weapon gun safe. These safes will be stored in a secure area in each of the four detail offices. Below is the policy for handling and storage of these weapons.

1. Special weapons are for use by Special Investigations personnel, trained in their use, for Special Investigations operations, CIRT, or as directed by SWAT.
2. Gun safes will never be left open unattended.
3. Special weapons will only be deployed when needed and with the knowledge of the detail supervisor or the Department Commander.
4. Special weapons will be stored secured in the trunk of your duty vehicle in transit or secured in the detail gun safe.
5. Special weapons will not be left out unsecured for any reason.
6. Special weapons will be carried in a hard sided, locking box when not stored in the gun safe for the protection of the weapon during transportation.
7. Special weapons will be maintained in an operable condition at all times.
8. Any malfunctions or needs for service will be reported to the detail supervisor immediately.
9. Special weapons will be cleaned after qualification or after being used in training.

**C. Weapons Qualification**

1. Investigators and Deputies will shoot the authorized qualification course for the above specified weapons, as follows;
  - a. Colt M4: Monthly on the CIRT course.

- b. Shotgun: At intervals as required by the Department for Patrol Staff.
2. SWAT members are not required to participate in monthly qualification but may elect to do so.

This policy applies to those members of Special Investigations wishing to operate the Colt M4, and the Benelli. It does not apply to those who elect not to carry them. This policy does not supersede or will not be in lieu of any other Sheriff's Department weapon policy or regulation.

3. Special Investigations Bureau personnel not meeting monthly qualification of those specified weapons will not be allowed to operate that weapon.
4. Special Investigations Bureau personnel will also conform to Department regulations as it relates to handgun qualification. However, it is encouraged Special Investigations Bureau personnel qualify monthly with all weapons.

**D. Training**

1. Personnel utilizing Colt M4 weapon will be required to attend in-house training annual recertification conducted by the Special Weapons Team.
2. Personnel utilizing either the Remington 870 or the Benelli will qualify annually with each weapon carried.
3. New Bureau personnel will be required to attend the Sheriff's Department CIRT class for the M4 and in-house orientation prior to carrying those weapons on duty.

**E. Inspection and Maintenance**

1. Colt M4 rifles, Remington 870 Pump and Benelli Semi-Automatic shotguns will be inspected by Department armorers once yearly.
2. Routine maintenance of Special Investigations Bureau Specialized Weapons will be conducted by a certified Department Armorer.

**INVESTIGATIONS DIVISION  
SPECIAL INVESTIGATIONS BUREAU  
ORANGE COUNTY SHERIFF-CORONER DEPARTMENT**

**SECTION: 2-4**

**SUBJECT: LESS LETHAL / NON LETHAL WEAPONS**

**I. CONCEPT AND ISSUES**

**A. Purpose**

The purpose of this policy is to establish guidelines for the use and deployment of “Less Lethal/Non Lethal” weapons for Special Investigations Bureau personnel.

**B. Background**

During the course of Bureau investigations or operations, it may become necessary to deploy “Less Lethal/Non Lethal” force when “deadly force” is not justified. In those instances, investigators/deputies may use “Less Lethal/Non-Lethal” force with those devices as authorized by the Department and described under this policy.

**C. Scope of Policy**

This policy established the guidelines and procedures regarding the authorization to carry and deploy “Less Lethal/Non Lethal” devices and applies to all Bureau personnel.

**D. Accountability**

Only those Special Investigations Bureau personnel meeting the Department policy regarding the requirements for “Less Lethal/Non Lethal” force and as outline in this policy will be allowed to carry and deploy such approved devices.

**II. POLICY**

Only Department authorized “Less Lethal/Non-Lethal” weapons shall be deployed by Special Investigations Bureau personnel after meeting the training requirements, as set forth by the OCSD Policy Manual as outlined below.

**A. Authorized Electronic Control Device (ECD)**



1. X-26 manufactured by Taser International

**B. Chemical Agents**

All personnel approved to carry chemical agents shall only carry the department approved and issued chemical agent and holster. It is at the discretion of Special Investigations Bureau personnel whether to carry chemical agents.

**C. Certification/Recertification and Use**

1. Certification through the Training Division is required to deploy less lethal, non-lethal and electronic control devices (TASER).
2. Recertification through the Training Division is required annually, within 12 months of last certification/recertification date, to deploy less lethal, non-lethal and electronic control devices.
3. Use of Electronic Control Devices will conform to the OCSD Policy Manual, section 309.

**INVESTIGATIONS DIVISION  
SPECIAL INVESTIGATIONS BUREAU  
ORANGE COUNTY SHERIFF-CORONER DEPARTMENT**

**SECTION: 3-1**

**SUBJECT: EVIDENCE HANDLING/STORAGE PROCEDURES**

**I. Concept and Issues**

**A. Purpose**

The purpose of this policy is to provide specific guidelines to Special Investigations Bureau personnel responsible for handling evidence coming into the possession of the Special Investigations Bureau Units. These guidelines will provide strict security and ensure all laws and Departmental regulations are followed.

**B. Background**

Proper evidence handling is paramount to successful prosecutions of Special Investigations Bureau cases. Any mishandling of evidence can result in a case being dismissed and is detrimental to the Department's image.

**C. Scope of Policy**

This policy is directed to all Special Investigations Bureau personnel who handle narcotics and other related evidence.

**D. Accountability**

All Special Investigations Bureau personnel are responsible for knowledge and adherence of this policy. Unit supervisors will be responsible for ensuring those under their command are aware and comply with this policy.

**II. POLICY**

All items of evidence will be tagged and placed into appropriate storage containers or bags. An evidence tag or safekeeping tag will be affixed. The evidence tag will reflect the name of the officer who discovered the item being seized, in addition to the officer booking the item(s).

All items seized as evidence or for safekeeping will be booked into Sheriff's Property.

**A. General Evidence**

Special Investigations Bureau personnel will be responsible for understanding and following the procedures in the collecting, preserving and packaging of evidence as outlined in the OCSD Field Operation Manual, Section 19 and 44.

**B. Large Evidence Collection**

1. Large evidence items
2. Large quantity of evidence

In the event that large bulky evidence items or a large quantity of evidence is encountered or anticipated, arrangements should be made via the telephone with the Sheriff's Department Property/ Evidence Sergeant to have an evidence property truck respond to the location for evidence pick up and booking into Sheriff's Property.

**C. Property and Monies Seized As Evidence or Asset Forfeiture**

1. Cash or narcotics with a street value over \$5,000 seized as evidence must be stored in the vault in the Property Room at the Brad Gates Building of the Orange County Sheriff's Department. The weight and/ or amount of marijuana booked into the Property Room vault will be at the discretion of the unit supervisor.
  - a. Notification is made to the Property Sergeant. After hours the Property Sergeant can be notified through Sheriff's Dispatch.
  - b. The Property Sergeant will respond and take custody of the above types of evidence and place it in the Property vault. A supervisor and the deputy/ investigator booking monies \$5,000 or over shall both sign the seal attesting to the amount of money being booked.
  - c. Notification by email or telephone will be made to the Property Sergeant when cash or narcotics with a street value over \$2,500 is seized and booked into an evidence locker at the Brad Gates Building. Notification should be made immediately after booking cash.

2. When money is located at a target location, which is intended to be collected pursuant to asset forfeiture proceedings, a supervisor will be contacted immediately.
3. The supervisor will ensure two investigators are present and photographs of the money will be taken where it was located prior to moving.
4. When money is seized per asset forfeiture, it will be up to the supervisor on scene to determine if the money will be counted at the location or sealed in a tamper evident serialized bag to be counted at a later time. This decision will be based on the bulk of the currency amount.
5. With investigators as witnesses, the supervisor will seal the money in an approved money bag/envelope. Once sealed, the bag/envelope will not be opened until it is counted at Sheriff's Fiscal or an approved financial institution.
6. Money bags will be transported by the supervisor followed by at least one investigator to a pre-approved safe and stored. The money will be transported and counted at Sheriff's fiscal or an approved financial institution at the earliest opportunity.
7. All persons who declare an interest in any item seized for forfeiture purposes will be served with the appropriate notice form upon seizure of the item, or as soon as practical. This form will describe the item subject to forfeiture and describe the location of the forfeiture. When serving the notice of forfeiture upon any person who may claim an interest in seized funds, the amount seized will be listed. **(Section 1-5)**
8. All persons involved in an investigation where assets are seized for forfeiture purposes who claim no interest in the items seized will be given the Sheriff's asset Disclaimer form to read and sign. **(Section 1-5)**

**INVESTIGATIONS DIVISION  
SPECIAL INVESTIGATIONS BUREAU  
ORANGE COUNTY SHERIFF-CORONER DEPARTMENT**

**SECTION: 4-1**

**SUBJECT: "FLASH" FUND**

**I. CONCEPTS AND ISSUES**

**A. PURPOSE**

To establish a procedure for use and accountability of the Sheriff's "Flash" Fund.

**B. SCOPE**

This procedure applies to all uses of the "Flash" Fund monies.

**C. REFERENCES**

- a. Government Code section 26881
- b. Board of Supervisors' Resolution 76-1255 dated August 17, 1976; Resolution 80-2065 dated December 16, 1980; and Resolution 91-682, dated June 4, 1991.

**D. GENERAL**

The following procedures must be strictly adhered to in order to assure responsibility and accountability for the "Flash" Fund. This money shall not be used to buy contraband; its use shall be limited to "flash" money purposes in connection with narcotics, vice, and various special investigations.

The maximum draw shall be \$30,000, unless the Sheriff or his designee obtains special approval from the Board of Supervisors to draw additional funds for a one-time situation. All monies must be returned within 72 hours from the time the withdrawal was made.

**II. POLICY**

All Sheriff's Special Investigations Bureau Personnel will comply with the current procedures outlined in Sheriff-Coroner Fiscal Procedure C002 "Flash" Fund monies and detailed below.

**A. Cash-On-Hand (5.1)**

The maximum cash-on-hand shall not exceed \$30,000. The amount shall be accounted for by Financial/Administrative Services and retained in their inner safe.

**B. Authorization to Withdraw Funds (5.2)**

Withdrawals must be authorized by the Sheriff, the Undersheriff, an Assistant Sheriff, Executive Director, Commander, or Senior Director. A list of the approved names shall be on file with the Auditor-controller.

In the event a person on the authorized list terminates employment with the County or otherwise ceases to function in that capacity, a new list of authorized personnel shall be forwarded to the Auditor-Controller with a memo stating the effective date of the new list.

**C. Withdrawal of "Flash" Fund Monies (5.3)**

1. The Captain of the Investigations Division or the designated Lieutenant or Sergeant in his/her absence, requesting funds, will have Fiscal/Administrative Services prepare a "Flash" Fund Monies Withdrawal Receipt Form (F0680-184), refer to **Attachment A**. The Captain, Lieutenant or Sergeant will obtain a signature as authorized in paragraph 5.2 above.

If a withdrawal of funds is needed at a time when Fiscal/Administrative Services isn't working, the Captain, Lieutenant or Sergeant will complete the form, obtain an authorized signature (paragraph 5.2) and telephone the Fiscal/Administrative Services Manager or Administrative Officer at his/her home to respond to open the safe and withdraw the funds. Their telephone numbers are listed with the Department Commander.

The Manager or Administrative Officer will meet the Captain, Lieutenant or Sergeant and the Investigator at Fiscal/Administrative Services. He/She will, 1) ensure that the "Flash" Fund Monies Withdrawal Receipt Form has the proper authorized signature; 2) open the safe; and 3) distribute the amount requested to the recipient and/or co-recipient.

2. The Captain, Lieutenant or Sergeant will sign as recipient of the funds. The Investigator will count the cash and sign as co-recipient. As previously stated, the funds will be available for a 72-hour period. Under special circumstances, a written extension over the 72-hour period may be granted by the Sheriff or an Executive Command Staff member.

- 3 If more than the available \$30,000 is requested the following procedures shall be followed:
- (a) Fiscal/Administrative Services will prepare a Payment Request Form for a cash advance. The Payment Request form will be signed by the Sheriff or an Executive Command Staff member. The Captain, designated Lieutenant or sergeant will deliver the form to the Chairman of the Board of Supervisors for his/her signature. If the Chairman is not available, another Board member can sign the form.
  - (b) The signed Payment Request form will be delivered by the Captain, Lieutenant, sergeant and the Fiscal/Administrative Services Manager or Administrative Officer to the Auditor-controller's Accounts Payable Section for preparation of the check.
  - (c) Once the check is typed, the Captain, Lieutenant, Sergeant or Investigator and the Fiscal/Administrative Services Manager or Administrative Officer, will take the check to the bank or the County Treasurer to be cashed.
  - (d) The Captain, Lieutenant or Sergeant will complete the withdrawal portion of the "Flash" Fund Monies Withdrawal Receipt Form. The top copy of the form (white) will be removed and filed with the Fiscal/ Administrative Services Manager. The last copy of the form (green) will be removed and given to the Fiscal/Administrative Services Keeper of Records. The Captain or Lieutenant will retain the other three parts of the form.

**D. Returning "Flash" Fund Monies (5.4)**

1. When the activity is completed, the Captain, Lieutenant or Sergeant will immediately return the money with the three-part form to Fiscal/administrative Services. Upon receipt of the funds, the Fiscal/Administrative services Manager or Administrative Officer will count the cash and complete the "Funds Returned" portion of the "Flash" Fund Monies Withdrawal Receipt Form. The Manager or Administrative Officer will return the \$30,000 to the inner safe and direct funds in excess of the \$30,000 be deposited with the county Treasurer. The form will be distributed as follows: the pink and blue copy to the Captain, Lieutenant or Sergeant; the yellow copy to Fiscal/Administrative Services' Keeper of Records.

If the Manager and Administrative Officer are absent, the Senior Accountant/Auditor will receive the funds, count the cash, deposit the cash

in a drawer in the safe, lock the drawer and retain the key. The Senior Accountant/Auditor will sign and date the "Funds Returned Receipt" portion of the form, give the Captain, Lieutenant or Sergeant the pink and blue copy and retain the yellow copy.

Upon the return of the Administrative Officer or Manager, the Senior Accountant/Auditor will turn the key over to her/him. The Administrative Officer or Manager will recount the cash, initial the yellow copy of the form and turn it over to the Keeper of Records. If more than \$30,000 was requested, she/he will follow procedures 5.4.1 above.

2. If Fiscal/Administrative Services is closed when the funds are ready to be returned, the money will be put in the Special Investigations' safe or Records/Property safe. If the Records/Property safe is used, a cash receipt slip (form P06aO-113.1) will be given to the Investigator, refer to **Attachment B**. When Fiscal/Administrative Services is re-opened, the funds will be brought to the Manager or Administrative Officer. The Manager or Administrative Officer will count the cash, complete the "Flash" Fund Monies Withdrawal Receipt Form and distribute the funds as previously stated in 5.4.1 above.
3. Funds in excess of the \$30,000, must immediately be deposited with the County Treasurer.
4. If the money is to be returned to Fiscal/Administrative Services later than the allowed 72 hours from the time the money was given to the Investigator, Sergeant, Lieutenant or Captain, the Manager or Administrative Officer should be notified to meet the Investigator at Fiscal/Administrative Services and return the funds to the inner safe, regardless of the hour.

**E. Monies Withheld As Evidence (5.6)**

In the event an amount of "Flash" Fund money is withheld as evidence, this information must be reported immediately to the Auditor-Controller. If in the judgment of the Sheriff, such money cannot be repaid to the Fund for an unknown period of time, the Sheriff will request the Auditor-Controller temporarily increase the available balance.

If the Auditor-controller concurs that the Fund should be temporarily replenished, the Auditor-controller will issue a temporary cash advance to the Sheriff. Upon release of such funds held as evidence, the cash advance must be immediately returned to the County Treasurer and the released funds returned to the Fiscal/Administrative Services' safe. In no event shall an action of this nature be



recognized as a release of responsibility or liability by the Sheriff for the monies being withheld as evidence.

When "Flash" Fund monies are withheld as evidence, the Sheriff shall file a monthly written report with the Auditor-controller giving the status of the case involving the funds withheld. Such report will be signed by the Sheriff and will be filed within five (5) days after the close of each month. The report will be filed monthly, as long as the funds are held as evidence.

**F. Loss of Monies (5.10)**

In the event withdrawn monies are lost or not repaid to the Fund, the Captain of the Investigation's Division will handle the investigation. He/ she will:

- (a) Immediately notify the Sheriff, the Undersheriff, the appropriate Assistant Sheriff, Fiscal/Administrative Services, the Auditor-Controller and the District Attorney;
- (b) Undertake an investigation of the circumstances surrounding the loss. The Auditor-Controller and District Attorney will be kept aware of all actions taken by the Sheriff's staff;
- (c) Immediately notify the County Administrative Office/Risk Management Division to determine whether the loss is covered by insurance and, if covered, file the appropriate claim;
- (d) Provide written notice to the Auditor-Controller with concurrence by the District Attorney, showing in the report that fraud or gross negligence has not been committed in connection with the loss;
- (e) Request Fiscal/Administrative services prepare an Agenda Staff Report (ASR), requesting the Board of supervisors reimburse the Sheriff for the loss;

If the Board of Supervisors approves the ASR, the Auditor-Controller will reimburse the Fund, and the Department will be released from further responsibility and/or liability.

# Attachment A

# Attachment B

**"FLASH" FUND MONIES WITHDRAWAL RECEIPT FORM**

**"FLASH" FUND WITHDRAWAL REQUEST**

\_\_\_\_\_  
Identifying number

\_\_\_\_\_  
Amount

\_\_\_\_\_  
Nature of Investigation

I \_\_\_\_\_, as recipient of "Flash" funds in the amount of \$ \_\_\_\_\_, pledge that these funds will be utilized for the express purpose prescribed in Board of supervisors Resolution #76-1255. I also pledge that these funds will be returned to the "Flash" fund custodian within 72 hours of the withdrawal of said funds.

\_\_\_\_\_  
Signature Time/Date

I, \_\_\_\_\_, hereby acknowledge that I have received the amount of \$ \_\_\_\_\_ from \_\_\_\_\_

\_\_\_\_\_  
Signature Time/Date

I hereby authorize the withdrawal of Sheriff-Coroner "Flash" fund monies in the amount stated above.

\_\_\_\_\_  
Authorized Signature Time/Date  
Sheriff-Coroner Department

Extension Granted Until:

Time: \_\_\_\_\_ Date: \_\_\_\_\_

By: \_\_\_\_\_

**FUNDS RETURNED RECEIPT\***

\$ \_\_\_\_\_ received on Time: \_\_\_\_\_ Date: \_\_\_\_\_

Received By: \_\_\_\_\_

NO.275394

RECEIPT  
COUNTY OF ORANGE  
SHERIFF-CORONER DEPARTMENT

\$ 30,000.00

Received of: Records/Property Date \_\_\_\_\_

Address: N/A City N/A

For: Money received from .

Paid By: Cash \_\_\_\_\_ Check No. \_\_\_\_\_ By \_\_\_\_\_  
FO680-113.1

Four-Part Form

DISTRIBUTION:

- Original (green) - Give to Sheriff's Captain, Lieutenant or Investigator, to deliver with the cash to Fiscal/Administrative Services.
- Copy 1 (white) - Give to Sheriff's Captain, Lieutenant or Investigator, to be matched with yellow copy when obtaining cash from Records/Property.
- Copy 2 (yellow) - Place in safe with the money.
- Copy 3 (blue) - Retain in cash receipt book.

**INVESTIGATIONS DIVISION  
SPECIAL INVESTIGATIONS BUREAU  
ORANGE COUNTY SHERIFF-CORONER DEPARTMENT**

**SECTION: 4-2**

**SUBJECT: SHERIFF'S SPECIAL APPROPRIATION FUNDS**

**I. CONCEPTS AND ISSUES**

**A. PURPOSE**

To establish a uniform procedure for use and accountability of the Sheriff's Special Appropriation Funds.

**B. SCOPE**

This procedure applies to all uses of the Sheriff's Special Appropriation Funds.

**C. REFERENCES**

Government Code Sections 29430, 29435, 29436, 29437 and 26600.

Board of Supervisors' Resolution 82-766 dated May 18, 1982, Minute Order dated April 17, 1984, Resolution 87-172 dated February 10, 1987, and Minute Order dated December 15, 1987.

**D. GENERAL**

The Sheriff's Special Appropriation Funds, as authorized by Government Code Section 29435, are to be utilized by the Sheriff for expenses incurred in criminal cases arising within the County, for the preservation of peace and the suppression of crime.

There are two Sheriff's Special Appropriation Funds; one in Budget Control 060 (SNP), and one in Budget Control 118 (RNSP). These funds are limited in amount, as determined by the Board of supervisors. Under no circumstances shall either fund be less than \$5,000, annually per Government Code Section 29430.

The funds may be utilized for purposes that directly parallel the duties of the Sheriff as stated by Government Code Section 26600. The Sheriff may expend from these funds, as necessary, in the performance of the duties of his/her office. The appropriateness of all charges to these funds shall be determined exclusively

by the Sheriff. The Assistant Director of the Financial/ Administrative Services Division, unless otherwise designated, shall be the Custodian of Funds.

Each fund is a revolving fund maintained by Financial/Administrative Services. Utilization, responsibility and accountability of each fund shall be in accordance with the following procedures.

## **II. POLICY**

All Sheriff's Special Investigations Bureau Personnel will comply with the current procedures outlined in Sheriff-Coroner Fiscal Procedure, Sheriff's Special Appropriation Funds and detailed below.

### **A. Allowable Expenditures (5.1)**

Expenditures from the funds must be of a nature that they are extraordinary or special, but necessary to promulgate the investigation of a particular case or cases involving narcotics, vice, or other special investigations. Advances may be made from the funds to provide investigators with cash necessary to conduct their duties. Such advances must be cleared, either by returning the unused cash, or by filing an expense voucher.

### **B. Obtaining Cash from Financial Services (5.3)**

To obtain cash from Financial/Administrative Services, the recipient shall pick up, the Cash Advance Receipt Book, which contains a cash advance form and return to Financial Services a signed and completed cash advance form (form F0680-207.1). The cash advance form shall be completed and signed by an Executive Command Staff member (Commander or above). The final approved document shall be returned to the Assistant Director of Financial/Administrative Services Division or designee.

Upon receiving the completed form, Financial/Administrative Services shall draw the cash from the safe. The recipient shall observe the cash count and sign the form as "received by" including their badge number as verification of the amount received. The division obtaining the cash, either Investigations or Special Investigations, will retain the cash in their safe to distribute as needed, while maintaining records of all expenditures.

### **C. Reimbursement for Expenses (5.5)**

- (a) Individuals incurring out-of-pocket expenses associated with their investigative duties may receive reimbursement for such expenses, as long as the expenses incurred meet the criteria described in Section 4-3 of this procedure manual. Reimbursement for these out-of-pocket expenses shall

be made whenever a properly completed and approved expense voucher is submitted to the Captain of the division.

- (b) Quarterly, Financial/Administrative Services will assist each user (GET, RNSP, Departmental Narcotics/Vice or Investigations) with a reconciliation of their cash advances and expenditures.
- (c) Financial/Administrative Services will conduct an additional reconciliation in the last quarter of the fiscal year, generally around the first of June.

**D. Maintenance of the Funds (5.6)**

User divisions shall maintain subsidiary accounting records. These records shall be subject to audit by Financial/Administrative Services. Financial/Administrative Services will also maintain subsidiary accounting records.

**E. Year-End Closing and Quarterly Reconciliation (5.8)**

The funds shall be closed on June 30th of each fiscal year. At that time, a full accounting of all expenditures shall be made to the Auditor-Controller.

All cash advances retained in other safes will be cleared by that date by the unit's supervisor or a reason will be provided to the Sheriff as to why a particular cash advance cannot be cleared until a later date.

Unit supervisors will conduct quarterly reconciliations of expenditures of Special Funds during the fiscal year.

**F. Loss of Monies (6.1)**

In the event monies withdrawn are lost or not accounted for, or repaid to one of the funds, the Investigations Division and the Financial/Administrative Services Division:

- (a) The Investigations Division Captain shall immediately notify Executive Command, the Auditor-Controller and the District Attorney of the event. The Captain shall undertake an investigation of the circumstances surrounding the loss. The Auditor-Controller and District Attorney shall be kept aware of all actions taken by the Sheriff's staff.
- (b) The Financial/Administrative Services Financial Officer shall immediately notify the County Executive Office/Risk Management Division to



determine whether the loss is covered by insurance and if covered, file the appropriate claim.

- (c) The Financial/Administrative Services Division Director shall, with the concurrence of the District Attorney, provide written notice to the Auditor-Controller indicating that fraud or gross negligence has not been committed in connection with the loss.
- (d) Financial/ Administrative Services Division staff shall prepare an Agenda Staff Report (ASR) requesting the Board of Supervisors reimburse the Sheriff for the loss. If the Board of Supervisors approves the ASR, the Auditor/Controller shall reimburse the fund, and the department shall be released from further responsibility and/or liability.

**INVESTIGATIONS DIVISION  
SPECIAL INVESTIGATIONS BUREAU  
ORANGE COUNTY SHERIFF-CORONER DEPARTMENT**

**SECTION: 4-3**

**SUBJECT: INVESTIGATIVE EXPENSES**

**I. INTRODUCTION**

**A. Purpose**

The purpose of this section is to establish the policy concerning Special Investigations Bureau expenditures and the guidelines to follow when using Sheriff's funds to pay for expenses.

**B. Background**

Special Investigations Bureau personnel may have to expend funds in the course of narcotics, vice, or gang investigations. The procedures and types of expenses are outlined in the Policy Section below.

**C. Scope of Policy**

This policy applies to all Special Investigations Bureau personnel.

**D. Accountability**

It shall be the responsibility of all Special Investigations Bureau personnel to be aware of this policy and adhere to its guidelines. Unit supervisors shall be responsible for making sure the expenditures are justified and are documented under the proper classification.

**II. POLICY**

All Special Investigations Bureau personnel will comply with the current procedures outlined in Sheriff-Coroner Fiscal Procedure C004 Special Appropriation Funds.

**A. Sheriff's Special Appropriation Funds**

Bureau personnel may, in the performance of their duties, expend special funds during Bureau investigations. Included in this area will be contraband purchases, program maintenance and operational expenses.

1. Contraband Purchases – Investigators/deputies will have the availability of expending funds for narcotics, or other contraband, with prior supervisory approval.
2. Program Maintenance - will include meals, gasoline, lodging, and money for confidential informants and/or witnesses. When actual cash is disbursed to an informant, another officer will be present. The purpose of two officers is to protect the credibility of the investigators/deputies, the Sheriff and the Sheriff's Department. On rare occasions, it is conceivable that an officer will be unable to adhere to the above policy. In those instances, the officer can disburse funds and later advise his supervisor of the circumstances. All disbursements will be recorded in the C/I file and/or CI compensation record.
3. Operational Expenses - will include officer expenses in an undercover capacity, food, gasoline, lodging, vehicle rental, and any other item deemed necessary by the unit supervisor to enhance the successful completion of an operation.

**B. Vouchers**

1. Each investigator/deputy will be assigned an expense voucher for the purpose of recording all special funds expended during Special Investigations Bureau operations. All areas of the voucher will be filled in with the appropriate information. The pink and blue copies will include additional information including the nature of the expenditure, the purpose of the expenditure, and the identity of the person who received the expenditure.
2. The investigator/deputy will maintain a file copy of the voucher, after the division commander has approved it.
3. Each investigator/deputy will also maintain a personal ledger detailing all expenditures. This ledger will include location, date/time, and reason for investigation and persons present.

**C. Credit Cards**

1. Bureau personnel will be issued gasoline “Voyager” credit cards. These cards will be used to purchase fuel and oil, and those necessary items for emergency minor repair such as fan belts, etc. These expenditures are restricted to use for designated official sheriff's vehicles only. The detail supervisor will assign these vehicles. Items described as emergency repair

items will have the approval of the supervisor, prior to the expenditure, whenever possible.

2. The Investigations Division Administrative Manager will review the monthly Voyager statements for unusual or suspicious activity. The Administrative Manager will forward any unusual or suspicious activity to the Bureau Lieutenant for review and investigation.
3. The Bureau Lieutenant will conduct periodic random checks of the Voyager statements for suspicious or unusual activity.

**D. Petty Cash Vouchers**

1. Investigative expenses not qualifying for Sheriff's Special Funds will be submitted on a petty cash voucher. Reimbursement for expenses is limited to \$1,000 per day, per vendor.
2. The voucher needs to be filled in completely. This includes the date, expenditure coding, vendor name, and purpose with the original receipt attached.
3. Approval for the Petty Cash Voucher is from the Captain of Special Investigations with the approval signature of the Special Investigations Lieutenant as delegated by the Captain of Special Investigations.

**INVESTIGATIONS DIVISION  
SPECIAL INVESTIGATIONS BUREAU  
ORANGE COUNTY SHERIFF-CORONER DEPARTMENT**

**SECTION: 4-4**

**SUBJECT: INFORMANT PAYMENTS**

**I. INTRODUCTION**

For Additional information see OCSD Policy Manual Section 608.

**A. Purpose**

The purpose of this section is to outline policy and procedures regarding the use of Sheriff's Special Appropriation Funds for payment of services by an informant and to provide general guidelines on payment amounts for the types of services rendered.

**B. Background**

There are times when information is obtained from an informant who has no criminal charges pending but is seeking monetary compensation. Sheriff's Special Appropriation Funds may be used for this compensation and should follow the basic guidelines for amounts set forth in this section.

**C. Scope of Policy**

This policy applies to all Special Investigations Bureau personnel.

**D. Accountability**

It shall be the responsibility of all Special Investigations Bureau personnel to be aware of this policy and adhere to its guidelines. Unit supervisors shall be responsible for making sure the payment amounts are justified for the service prior to submission for authorization.

**II. POLICY**

Monies only from Sheriff's Special Appropriation Funds shall be used for payments to informants.

**A. Informant Payment**

1. All informant payments will be documented on a supplemental report under the appropriate Internal File Number (IFN) for that payment and support of the payment will be detailed in that report to include; types and amounts of seizures made as a result of the information provided by the informant, number of arrests made, and number of search warrants generated. This information will be cross referenced to the case numbers in which the arrests, seizures and search warrants were made.
2. The Investigator will complete a Receipt of Payment Form with appropriate approval levels prior to the payment.
3. Investigators shall complete an expense voucher and submit it to the unit supervisor for recordation and forward to the Lieutenant of Special Investigations Bureau for approval of payment with the appropriate level of authorization followed.

**B. Informant Fees**

1. All Bureau personnel must be mindful of the policies set forth in the informant Section 608 of the OCSD Policy Manual, when paying informants. The responsibilities regarding informants are outlined in Section 608.
2. Informant payments are dependent upon the amount of seizures made and/or the complexity of the case involved. All payment funds must be approved as outlined below. The Informant Payment Receipt will be used in all payments to informants.
3. When the amount to be paid to an informant exceeds that which a unit supervisor can authorize (\$500 or more), the informant payment receipt will be forwarded for authorization from the appropriate levels as outlined below. Once approved, the unit supervisor will obtain the money and relinquish it to the investigator for payment.
4. Upon payment to the informant, the investigator will complete an expense voucher and place the voucher number on the "Informant Payment Receipt Form." The voucher copies will be distributed in the usual manner and the "Informant Payment Receipt Form" will be placed into the informant file.

**C. Authorization for Expenditures**

Fees paid to informants by Bureau personnel and expenditures incurred during investigations shall comply with the following limitations and authorizations.

Informant fee limits:

\$1 - \$500	Unit Sergeant's Approval
\$501 - \$5,000	SIB Lieutenant's Approval
\$1,501- \$3,500	5,001 – 10,000 Investigations Division Captain's Approval
Above \$10,000	10,000 Investigative Services Commander or Assistant Sheriff Approval

**D. Cash Disbursement**

The following establishes a cash disbursement policy for informants. No informant will be told in advance or given an exact amount or percentage for services rendered.

The fee paid to an informant will be determined by the amount of the seizure and the complexity of the case. In addition, how much the informant was involved in the seizure will help determine the amount. As a general rule, fees paid to informants shall be from 1% - 10%. No more than 10% of the seizure shall be paid unless there are extenuating circumstances and prior approval is given.

**INVESTIGATIONS DIVISION  
SPECIAL INVESTIGATIONS BUREAU  
ORANGE COUNTY SHERIFF-CORONER DEPARTMENT**

**SECTION: 5-1**

**SUBJECT: INFORMANTS**

For additional information see OCSD Policy Manual Section 608.

**I. PURPOSE**

Informants are usually confidential sources and provide information that would not be available to the case agent and are essential to a successful completion of certain investigations. The information provided often leads to the targeting of other suspects and the issuance of search warrants, as recognized by the judiciary. As with any case management, it is important to maintain proper informant management to ensure officer safety and to limit civil liabilities to the Department and to the case agent.

**II. POLICY**

Special Investigations Bureau personnel shall identify all informants accurately, whether they receive compensation, either in the form of financial compensation or any other benefit, or are cooperating with law enforcement for consideration on pending criminal charges. Informants who are given Sheriff's Special Funds for narcotics purchases or other approved criminal activity will fall under these procedures.

Bureau personnel shall provide information to their supervisors regarding the activities of their informants and any problems that may arise. Investigators/deputies shall keep their relationship with their informants on a professional level. No bureau personnel shall knowingly maintain a social relationship with an informant while off duty, or otherwise become intimately involved with an informant. Members of the Orange County Sheriff's Department shall neither solicit nor accept gratuities nor engage in any private business transaction with an informant. Any association with an informant outside the scope of the professional level is prohibited.

Informants are not the personal property of the individual investigator/deputy but are agents of the Department and act on its behalf. The true identity must be determined and provided to the unit supervisor and the Lieutenant of the Special Investigations Bureau.



### III. JUVENILE INFORMANTS

The use of juvenile informants under the age of thirteen (13) is prohibited. Except as provided for in the enforcement of the Tobacco Enforcement Act, Business & Professions Code §§ 22950, et seq. Persons under the age of eighteen (18) generally will not be used as informants. The use of any juvenile informant between the ages of 13 and 18-years is only authorized by court order obtained pursuant to Penal Code § 701.5.

For the purpose of this policy, a “juvenile informant” means any juvenile who participates, on behalf of this Department, in a prearranged transaction or series of prearranged transactions with direct face-to-face contact with any party, when the juvenile’s participation in the transaction is for the purposes of obtaining or attempting to obtain evidence of illegal activity by a third party and where the juvenile is participating in the transaction for the purpose of reducing or dismissing a pending juvenile petition against the juvenile.

### IV. INFORMANT DEFINITIONS

- Anytime a person is directed by an investigator/ deputy for any reason, whether on one occasion or on a continuous basis, to secure information of criminal activity.
- Anytime a person requests compensation, financial or otherwise, for information for any task performed.
- Anytime a person requests a Letter of Consideration on a pending criminal case.

### V. TYPES OF INFORMANTS

#### **Confidential Reliable Informant (CRI)**

A Confidential Reliable Informant (CRI) is an informant whose reliability and credibility have already been established. The information given in the past was proven truthful and reliable, either on one occasion or on numerous occasions.

Information received from a CRI managed and handled by another law enforcement agency is deemed reliable.

#### **Confidential Informant (CI)**

A Confidential Informant is an informant who requests to remain confidential, has yet to be tested and has typically not previously worked for law enforcement. This type of informant usually provides information for compensation.

### **Criminal Informant**

A Criminal Informant is a person who has a criminal history and is usually motivated for personal reasons. The informant may be acting out of revenge or for monetary compensation.

### **Defendant Informant**

A Defendant Informant is an informant who has a pending criminal matter, including probation and/ or parole violations. A Defendant Informant also includes an individual who has been prosecuted, convicted and is awaiting sentencing. A Defendant Informant provides information in exchange for a benefit or consideration, such as a Letter of Consideration, in their pending criminal matter.

### **In-Custody Informant**

An In-Custody Informant is an inmate who provides information or testifies about matters another inmate/defendant told him/her while both inmates were in custody, either at the direction of a deputy/investigator or for any type of benefit or consideration. Inmates who provide information about inmate activity, such as pending assaults, gang affiliations and narcotics smuggling, and who receive a benefit or any type of consideration, are considered In-Custody Informants.

Confidential Informants and operations involving informants within the Custody Operations Command will adhere to additional informant policies and procedures as outlined in the Custody Operations Manual section 1202.7.

### **Citizen Informant**

A Citizen Informant is a person who regularly or frequently provides information, outside the scope of their employment, to law enforcement. The Citizen Informant is motivated by a sense of good citizenship, not by benefit or consideration, and may act under the direction of a deputy or investigator. A Citizen Informant's information is automatically considered reliable without additional corroboration. A Citizen Informant may or may not choose to be confidential.

Citizens calling in or appearing in-person to provide information concerning criminal activity are not considered informants, as they are not acting at the direction of a law enforcement officer.

### **Anonymous Informants**

Anonymous informants are those individuals refusing to identify themselves to law enforcement and their identity is not known. An Anonymous Informant is not a citizen

informant and the information given may or may not be reliable. Anonymous informants do not fall under the requirements of this policy.

## **VI. UNDESIRABLE/UNRELIABLE INFORMANT FILE**

The following actions shall cause an informant to be classified as undesirable/ unreliable” and that informant shall be entered into the Undesirable Informant File, precluding their use by Special Investigations Bureau personnel.

### **Undesirable Informant Classifications**

- Acting in any way which would endanger the life of an officer;
- Revealing the identity of any officer or the existence of an investigation to suspects during an investigation;

**Note:** The following actions may cause an informant to be classified as “undesirable” and shall be at the discretion of the unit supervisor.

- Attempting to use the Department to further their own criminal objectives;
- Alienating one law enforcement agency against another by giving false or misleading information to one or both agencies; or,
- Providing unreliable information.
- In all cases the OCCII Coordinator at the District Attorney’s office shall be notified whenever a Confidential Informant is classified as undesirable and/ or unreliable. Additionally if a Confidential Informant was used in a criminal case that was filed by the District Attorney’s Office and it was later determined the CI was untruthful and/ or unreliable, the handling Deputy District Attorney on the criminal case, shall be notified. This is in accordance with Brady vs. Maryland, which in short states that the prosecution must turn over any evidence that might exonerate and/ or lessen the punishment of the defendant. An untruthful and unreliable Confidential Informant falls within those parameters.

**INVESTIGATIONS DIVISION  
SPECIAL INVESTIGATIONS BUREAU  
ORANGE COUNTY SHERIFF-CORONER DEPARTMENT**

**SECTION: 5-2**

**SUBJECT: INFORMANT PACKAGES/INFORMANT AUDIT**

For additional information see OCSD Policy Manual Section 608.

**I. CONCEPT**

**A. Purpose**

This section outlines the necessary steps to open, operate and maintain defendant and paid informants. These steps must also be taken when the situation arises where other types of informants are used in an active role and are required to handle Sheriff's Special Investigation Funds.

**B. Background**

Informant files are considered confidential. The informant package is a combination of current and historical information regarding the specific informant.

**C. Scope of Policy**

This policy sets forth certain procedures and responsibilities that must be adhered to when Special Investigations Bureau personnel utilize any type of informant.

**D. Accountability**

All Bureau personnel will be held accountable for adherence to this policy when utilizing informants.

**II. POLICY**

All approved informant packages will be kept in an informant file and maintained in a locked cabinet file and/or secure database by the unit supervisors and will be accessible to the Special Investigations Bureau Lieutenant.

**A. MANAGEMENT OF INFORMANT FILES****1. Informant Files Generated and Maintained within the Special Investigations Bureau**

- a. The Informant Files generated by personnel within the Special Investigations Bureau (North/ South Narcotics, North/ South GET and Special Operations), will be maintained by the unit supervisor of the specific unit that generated the informant file.

**2. Informant Files Generated Outside the Special Investigations Bureau**

- a. The North Narcotics Unit Supervisor shall be responsible for maintaining informant files generated by personnel assigned to the Airport Operations Division, Homeland Security Division, North Operations Division and the Criminal Investigations Bureau and the Professional Services Command (Courts).
- b. The South Narcotics Unit Supervisor shall be responsible for maintaining informant files generated by personnel assigned to the Southeast Operations Division and Southwest Operations Division.
- c. The Custody Intelligence Unit Supervisor shall be responsible for maintaining informant files generated by personnel assigned to the Custody Operations Command.

**B. INFORMANT FILES**

The informant file system will consist of “active, “inactive” and “undesirable” files informant. A separate file shall be maintained on each informant.

Unit supervisors will be responsible for assuring that investigators regularly update their informant file with any new information relating to the performance of the informant.

All Bureau personnel are responsible for opening up informants, confirming their identity, sending the completed informant package for approval to their unit supervisors, then on to the Special Investigations Lieutenant for final approval. It will be the responsibility of the informant’s handler to update the informant file with any information or documentation such as work performance, payments, Letters of Consideration, etc.

Access to the informant files shall be restricted to the Sheriff, the Undersheriff, the Investigative Services Command Assistant Sheriff and Commander, the Investigations Division Captain, the Special Investigations Bureau Commander, the North and South Narcotics Unit Supervisors and the Informant Handler or their designees.

### **III. INFORMANT DOCUMENTATION**

#### **A. Informant Packages (See Attachment A)**

The files of the Informants that are currently working or have the potential to work will be kept in the “active” file. If there has been no activity for one year, they will be moved to the “inactive” file. Those informants that prove “undesirable/unreliable” and documented as such, will be placed in the “undesirable” file.

Informant packages will contain the following:

- Informant Cover Sheet
- Informant Checklist
- Approval to Operate
- Informant Personal History
- Informant Admonition or Mercenary Informant Admonishment
- Informant Agreement
- Informant Update/ Yearly Audit
- Criminal history; (CII/NCIC, FBI, CCHRS, warrant checks)
- DMV printouts to include driver’s license, driving history and vehicle registration.
- Current photographs
- LA CLEAR check for name, address, vehicle, or phone number(s). This information is to be documented on the Informant Checklist
- Copy of Orange County Cooperating Individual Index Card (DA -OCCII).

The original OCCII card shall be forwarded to Orange County District Attorney's Narcotics Enforcement Team's Cooperating Individual Index Coordinator.

- Copy of Informant's Arrest Report (if applicable)
- Reports resulting from the Informant's work (for Consideration)
  
- Informant Performance Record
  
- Compensation Record
  
- Receipt of Payment Form
  
- Informant Activity Log
  
- Consideration Letter (if applicable)

**B. Informant Activation**

Special Investigations Bureau personnel must obtain preliminary approval from the unit supervisor to operate any type of informant. The informant must be fully identified and the appropriate checks made, with the paperwork completed and the unit supervisor's signed approval. All informants are required to sign and abide by the provisions of the Informant Admonition. The deputy/ investigator using the informant shall discuss each of the provisions of the agreement with the informant. Final approval must be obtained from the Special Investigations Bureau Lieutenant. All paperwork will then be placed into the informant package. The unit supervisor will place the approved informant package into a secure, locked file cabinet under active informants.

Informants may not be suitable due to their criminal history. Those serious offenses involving violence or sex crimes, etc. should be considered before approval to avoid compromising an investigation or embarrassing the Department.

Bureau personnel shall not make any promises or representations, express or implied, to any informant regarding his or her pending criminal matters, or those of any other person(s), without the concurrence of the OCII Coordinator.

The Special Investigations Bureau Lieutenant will assign an Informant Control Number (ICN) from the master informant control log, noting the name of the informant, unit and handler. The ICN will be forwarded to the unit supervisor and the handling investigator. The ICN will be used on all paperwork documenting the informant's work performance and any payments made.

The unit supervisor will place the approved informant package into a secure file cabinet, under active informants.

The continued use of an informant as active requires that updates be made to the informant file yearly by the handler on an Informant Update Form. This includes checks of CII, NCIC, DMV and local arrest records to document any new local, state or national criminal history.

**1. Informant Control Number (ICN)**

All informants must have an ICN. This is a permanent number that is specific to the individual informant and will be used throughout the informant's use.

The Informant Control Number consists of the calendar year, hyphen, followed by sequential number, hyphen, and the initials of the detail.

Example: 08-0001- (NN – North Narcotics; SN - South Narcotics; NV - North Vice; NG - North GET; SG - South GET).

**2. Informant Approval Form**

The Informant Approval Form gives the name of the handling investigator, the informant's name and brief description, reason for working, what type of program the informant will be working and the documented approval of the unit sergeant and final approval of the Special Investigations Bureau Lieutenant. The ICN will be written on this form by the Special Investigations Bureau Lieutenant.

**3. Notification to District Attorney**



It is essential that deputies and investigators inform the District Attorney's Office when a case involves an informant in any capacity. This is vital in order to ensure the proper evaluation of discovery and any Brady (**Brady v. Maryland** (1963) 373 US 83, at p. 87) issues at the earliest possible time, and to determine the best effective filing strategy. For example, if the information is known by the filing District Attorney, a case may be filed differently to better protect and ensure the confidentiality of the informant.

### **C. Informants Requiring Special Review**

Some persons being considered for use as informants may require special review for approval before being activated as informants. These include persons on parole or probation or those who, because of their privileged positions, e.g., attorneys, doctors, clergy, reporters, persons in a Witness Protection Program or former law enforcement officers.

Persons on probation or parole present specific concerns. The Department cannot place a probationer or parolee in a position that violates their terms or conditions regarding their probation or parole. The Department has no authority to usurp the conditions set forth by a court or the authority the controlling agency.

Guidance from County Counsel should be sought when certain persons of privileged status, as mentioned above are being considered for use as informants.

#### **1. Informants on County Probation**

The handling investigator shall determine if the person is on Summary (Informal) or Formal Probation. If the person is on Formal Probation the handling investigator shall do the following:

- Contact the court or probation officer to ensure the informants use will not violate the conditions of probation.
- Document the concerns if notification will jeopardize a major case investigation.

If the use of the informant is in conflict with the terms of probation, the handling investigator can attempt to amend the terms of probation through the court for Summary and Formal Probation.

If the court requests written documentation, the handling investigator will submit this request on a Department Letterhead with the proper Departmental approvals and submit the letter to the court. A request should be made to the court to refrain from placing the letter in the probationer's file to preserve the confidentiality of the informant.

**2. Federal Probation**

The handling investigator shall contact the informant's probation officer.

- Federal Probationers can only be used as informants when the Court of jurisdiction has been formally contacted and approved the use.
- A formal request to use a federal probationer as an informant shall be made on a Department Letterhead with the proper Departmental approvals. If the request is approved, the probation officer will complete and submit the necessary paperwork to the concerned federal court for approval.

**3. State Parolees**

The handling investigator shall contact the appropriate state agent or supervisor to request to use the parolee as an informant. The name of the agent contacted will be documented on the Informant Personal History form. If a written request is made by the agent, the handling investigator will submit the request on a Department Letterhead with the proper Departmental approvals, describing in general details the activity in which the parolee will be used, the duration of use and any travel that is anticipated.

**4. Federal Parolees**

As of current, the United States Parolee Commission discourages the use of federal parolees as informants. If the use of a federal parolee is essential in a major case, the Assistant Sheriff commanding the Investigative Services Command shall submit a written request to the Chairperson of the United States Parole Commission for use of that informant. If the Commission approves the request, the informant may only be used for a period of ninety (90) days. Extensions may only be requested by the Assistant Sheriff through the Chairperson of the United States Parolee Commission for approval of extensions.

**D. Inactivating Informants**

Informants may be inactivated at any time. There are several reasons detailed in the Informant Update Form. When the handling investigator determines that the informant should be inactivated, he/she will submit an Informant Update Form stating the reason and submit it to the unit supervisor for his/her approval. If approved, the unit supervisor will place the informant package into the “inactive” file. Inactive files will be kept for five (5) years and then destroyed.

When an investigator suspects that an informant is undesirable or unreliable, as outlined in Section 5-1, IV, the handling investigator will complete the Informant Update Form checking the unreliable box stating the reason, then submit it to the unit supervisor for approval. If approved, the form will be placed in the beginning of the informant package and the package will be placed into the Undesirable/Unreliable file. The investigator will then notify the informant as to their change in status and make it clear to the informant he/she will no longer be providing services to the Department. The Special Investigations Bureau Lieutenant will be advised and the proper notation will be made in the Master Informant Control Log.

A summary of all compensation monies (Compensation Form) will be submitted with the Informant Update Form.

The handler will notify the appropriate agencies regarding the informant’s undesirability or unreliability.

#### IV. INFORMANT AUDITS

Informant audits will be performed on a yearly basis by the Special Investigations Bureau Lieutenant. The unit supervisor will obtain all updated material and information from investigators in that unit. The unit supervisor will review the material for completeness and thoroughness prior to the audit and sign the Informant Update Sheet. The informant file with the approved Informant Update will be forwarded to the Special Investigations Bureau Lieutenant for approval. The Special Investigations Bureau Lieutenant will place the update form and material into the Informant File.

The Special Investigations Bureau Lieutenant will ensure all informant files in the “active file are up to date. The Special Investigations Bureau Lieutenant will also audit the informant files that have been inactivated. This will be done at the time the file is inactivated. Those that have not been active for five (5) years will be destroyed.

Information to be included in the yearly audit will include:

- Informant Update/ Audit Form
- Current copy criminal history; (CII/NCIC, FBI, CCHRS, warrant checks)
- Current copy of DMV inquiries to include driver’s license and driving history
- Informant Performance Record
- Compensation record and Receipt of Payment Form
- Copy of Letter of Consideration, if appropriate
- New informant photo if older than two (2) years
- Supervisor’s Annual Audit of Active CI’s, refer to **Attachment B**. This audit shall be conducted on every active CI who has been active for twelve (12) months or more. This includes questions that shall be asked of each active informant. Responses should be documented on the form and maintained inside the CI folder.

**ORANGE COUNTY SHERIFF'S DEPARTMENT  
INFORMANT COVER SHEET**

INFORMANT CASE AGENT \_\_\_\_\_ ICN \_\_\_\_\_

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SECTION ONE

1. INFORMANT COVER SHEET
2. INFORMANT CHECKLIST
3. INFORMANT APPROVAL TO OPERATE FORM
4. INFORMANT PERSONAL HISTORY FORM
5. INFORMANT ADMONISHMENT FORM
6. INFORMANT AGREEMENT FORM
7. MERCENARY ADMONISHMENT FORM
8. INFORMANT UPDATE FORM

SECTION TWO

1. CDL & CDL PHOTO PRINTOUTS (TELETYPE)
2. CII RECORD CHECKS
3. FBI RECORD CHECKS
4. C.L.E.T.S. WANTS & WARRANT CHECK
5. VEHICLE REGISTRATION PRINTOUTS
6. COPY OF ORANGE COUNTY COOPERATING INFORMANT INDEX CARD

SECTION THREE

1. INFORMANTS ARREST REPORT

SECTION FOUR

1. REPORTS RESULTING FROM INFORMANT'S WORK (FOR CONSIDERATION)

SECTION FIVE

1. INFORMANT PERFORMANCE RECORD
2. INFORMANT COMPENSATION RECORD
3. INFORMANT RECEIPT OF PAYMENT

SECTION SIX

1. INFORMANT ACTIVITY LOG
2. CONSIDERATION LETTER(S)

**ORANGE COUNTY SHERIFF'S DEPARTMENT  
INFORMANT CHECKLIST**

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

ADDRESS: \_\_\_\_\_

=====

DATE OF TELETYPE

CDL # \_\_\_\_\_

OC# \_\_\_\_\_

CII # \_\_\_\_\_

FBI # \_\_\_\_\_

WANTS/WARRANTS                          
                                  YES            NO

=====

LACLEAR/WSIN

DATE/CONTACT

NAMES            \_\_\_\_\_  
                                  \_\_\_\_\_

ADDRESS            \_\_\_\_\_  
                                  \_\_\_\_\_

VEHICLES            \_\_\_\_\_  
                                  \_\_\_\_\_

PHONES #'S            \_\_\_\_\_  
                                  \_\_\_\_\_

NOTE: DATES/TIMES & NAME OF PERSON CONTACTED – ACTIVE/INACTIVE  
CHECKS SHOULD BE COMPLETED YEARLY

OTHER INFORMATION: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

DEPUTY/INVESTIGATOR: \_\_\_\_\_            DATE: \_\_\_\_\_

**ORANGE COUNTY SHERIFF'S DEPARTMENT  
APPROVAL TO OPERATE INFORMANT**

\_\_\_\_\_  
DEPUTY/INVESTIGATOR

\_\_\_\_\_  
DATE

INFORMANT:  
\_\_\_\_\_

DESCRIPTION: \_\_\_\_\_

DOB: \_\_\_\_\_

SEX: \_\_\_\_\_ RACE: \_\_\_\_\_ AGE: \_\_\_\_\_ HGT: \_\_\_\_\_ WGT: \_\_\_\_\_ HAIR: \_\_\_\_\_ EYES: \_\_\_\_\_

MOTIVE:

WORK OFF CASE

CHARGE: \_\_\_\_\_ AGENCY: \_\_\_\_\_

FREE

EXPLAIN: \_\_\_\_\_

MERCENARY

EXPLAIN: \_\_\_\_\_

REVENGE

EXPLAIN: \_\_\_\_\_

WHAT IS PROPOSED PROGRAM? (TYPE OF DRUG, SUSPECTS, ETC.)

SPECIAL CONDITIONS

EXPLAIN \_\_\_\_\_

**ORANGE COUNTY SHERIFF'S DEPARTMENT  
APPROVAL TO OPERATE INFORMANT**

PRIOR LAW ENFORCEMENT INFORMANT STATUS

AGENCY: \_\_\_\_\_ DATE: \_\_\_\_\_

APPROVED                       INFORMANT PACKAGE COMPLETE  
 DISAPPROVED

REASON

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UNIT SUPERVISOR: \_\_\_\_\_

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

BUREAU COMMANDER: \_\_\_\_\_

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

ICN: \_\_\_\_\_







## NOTIFICACIÓN DE RESPONSABILIDADES

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¿Entiende usted que usted no es un empleado del DEPARTAMENTO DEL SHERIFF DEL CONDADO DE ORANGE y no debe utilizar el DEPARTAMENTO DEL SHERIFF como referencia? \_\_\_\_\_

¿Entiende usted que no tiene el privilegio de violar ninguna ley durante el curso de su asociación con el DEPARTAMENTO DEL SHERIFF? \_\_\_\_\_

¿Entiende usted que no debe revelar su asociación con el DEPARTAMENTO DEL SHERIFF a ninguna persona excepto en respuesta a una citación emitida en un tribunal de justicia? \_\_\_\_\_

¿Entiende usted que cualquier cantidad de dinero recibido del DEPARTAMENTO DEL SHERIFF por información o servicios provistos están sujetos a impuestos y deben ser reportados en su **DECLARACIÓN DE IMPUESTOS**? \_\_\_\_\_

¿Entiende usted que no debe manipular cualquier tipo de drogas **EN NINGUN MOMENTO** a menos que específicamente sea autorizado por el Código de California Salud y Seguridad? \_\_\_\_\_

¿Entiende usted que no puede comprar ni vender narcóticos a menos que sea autorizado con anticipación por un miembro del DEPARTAMENTO DEL SHERIFF? \_\_\_\_\_

¿Entiende usted que no debe cargar ningún tipo de equipo o documentos que implique a ninguna organización o unidad policiaca ? \_\_\_\_\_

¿Entiende usted que no debe afectar ningún arresto físico por violaciones de drogas durante su asociación con el DEPARTAMENTO DEL SHERIFF? \_\_\_\_\_

¿Entiende usted la ley en lo relacionado con el entrapamiento? \_\_\_\_\_

¿Entiende usted que no es un agente de la ley? \_\_\_\_\_

¿Entiende usted que no debe de utilizar su asociación con el DEPARTAMENTO DEL SHERIFF para resolver asuntos personales? \_\_\_\_\_

¿Entiende usted que ninguna promesa se a echo en referencia de cualquier consideración por cualquier caso criminal que usted puede tener con el DEPARTAMENTO DEL SHERIFF? \_\_\_\_\_

¿Entiende usted que usted no debe participar en ninguna actividad criminal sin previa notificación y de control específico de un miembro del DEPARTAMENTO DEL SHERIFF? \_\_\_\_\_

Esta amonestación fue leído y explicado a: \_\_\_\_\_  
I/C NOMBRE (IMPRIMIR)

I/C FIRMA: \_\_\_\_\_ FECHA: \_\_\_\_\_

DEPUTY/INVESTIGADOR: \_\_\_\_\_ FECHA: \_\_\_\_\_  
FIRMA

DEPUTY/INVESTIGADOR: \_\_\_\_\_ FECHA: \_\_\_\_\_  
FIRMA



## INFORMANT ADMONISHMENT

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Do you understand that you are not an employee of the Orange County Sheriff's Department (OCSD) and you are not to use the OCSD as a reference? \_\_\_\_\_

Do you understand that you are not privileged to break any laws during the course of your association with the OCSD? \_\_\_\_\_

Do you understand that you are not to disclose your association with the OCSD to anyone except in answer to a subpoena issued in a court of law? \_\_\_\_\_

Do you understand that any monies received from OCSD for information or services provided are **TAXABLE** and should be reported on your tax returns? \_\_\_\_\_

Do you understand that you are not to handle any drugs at **ANY TIME** unless specifically authorized to do so by the California Health & Safety Code? \_\_\_\_\_

Do you understand that you cannot purchase or sell any narcotics unless authorized to do so in advance by a member of the OCSD? \_\_\_\_\_

Do you understand that you are not to carry any documents or equipment that connote the law enforcement field? \_\_\_\_\_

Do you understand that you are not to affect any physical arrest for drug violations during your association with the OCSD? \_\_\_\_\_

Do you understand the law as it relates to entrapment? \_\_\_\_\_

Do you understand that you are not a Law Enforcement Officer? \_\_\_\_\_

Do you understand that you are not to use your association with the OCSD to resolve personal matters? \_\_\_\_\_

Do you understand that no promises are being made reference any considerations for any pending criminal cases that you might have with the OCSD? \_\_\_\_\_

Do you understand that you are not to engage in any criminal activity without prior notification and specific control by a member of the OCSD? \_\_\_\_\_

This admonishment was read and explained to: \_\_\_\_\_

INFORMANT NAME (PRINT)

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

DEPUTY/INVESTIGATOR: \_\_\_\_\_ DATE: \_\_\_\_\_

DEPUTY/INVESTIGATOR: \_\_\_\_\_ DATE: \_\_\_\_\_

**ORANGE COUNTY SHERIFF'S DEPARTMENT  
INFORMANT AGREEMENT**

NAME	AGE	DOB
ADDRESS		CITY/STATE
PHONE (H)	(W)	

STATE THE REASONS WHY YOU WISH TO ASSIST THIS AGENCY BY DISCLOSING KNOWN CRIMINAL ACTIVITY.

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DO YOU UNDERSTAND THAT YOU ARE NOT PRIVILEGED TO BREAK ANY LAWS DURING THE PERIOD OF TIME YOU ARE ASSISTING US? \_\_\_\_\_

DO YOU UNDERSTAND THAT YOU ARE TO KEEP IN CONSTANT CONTACT WITH THIS AGENCY WHILE ASSISTING US? \_\_\_\_\_

\_\_\_\_\_  
SIGNATURE

WITNESS \_\_\_\_\_

WITNESS \_\_\_\_\_

DATE \_\_\_\_\_



## MERCENARY INFORMANT ADMONISHMENT

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I, \_\_\_\_\_, understand that any assistance or information I provide to the Orange County Sheriff's Department is strictly for monetary compensation. I also understand that I will not receive any consideration for my assistance from the Orange County District Attorney's Office in regards to any current, pending, or future cases in Orange County Superior Court.

This admonishment was read and explained to: \_\_\_\_\_

INFORMANT NAME (PRINT)

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

DEPUTY/INVESTIGATOR: \_\_\_\_\_ DATE: \_\_\_\_\_  
SIGNATURE

DEPUTY/INVESTIGATOR: \_\_\_\_\_ DATE: \_\_\_\_\_  
SIGNATURE

UNIT SUPERVISOR: \_\_\_\_\_ DATE: \_\_\_\_\_  
SIGNATURE

**ORANGE COUNTY SHERIFF'S DEPARTMENT  
INFORMANT ANNUAL UPDATE**

ICN: \_\_\_\_\_

INFORMANT NAME: \_\_\_\_\_

I.         Active (Current Printouts Attached)

Operator Fact Sheet (Work record) Correct/Updated

II.        Deactivated reason:

1.     Informant is in Jail

2.     Informant left Area

3.     Informant is working for another Agency

          Agency Name \_\_\_\_\_

4.     Informant Refuses to Work

5.     Informant is using narcotics, alcohol

6.     Informant is unreliable OCDA notified

7.     Informant on parole and/or probation and PO will not approve Informant  
          to work

8.     Other: \_\_\_\_\_

\_\_\_\_\_

III. Reactivated

Reason: \_\_\_\_\_

\_\_\_\_\_

(Current printouts attached with updated history)

IV.  Yearly Informant Audit:

Supervisor Interview

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

Deputy/Investigator: \_\_\_\_\_

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

Unit Supervisor: \_\_\_\_\_

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

Bureau Commander: \_\_\_\_\_

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

SECTION TWO

CDL RECORD AND PHOTO

CII RECORD/FBI RECORD

CLETS WANTS/WARRANTS

VEHICLE REGISTRATION

OCCII CARD

**SECTION THREE**

**INFORMANT ARREST REPORT**



## SECTION FOUR

# REPORTS RESULTING FROM INFORMANTS WORK

**SECTION FIVE**

**INFORMANT PERFORMANCE RECORD**  
**INFORMANT COMPENSATION RECORD**  
**INFORMANT RECEIPT OF PAYMENT**

SECTION SIX

INFORMANT ACTIVITY LOG  
CONSIDERATION LETTER(S)





**ORANGE COUNTY SHERIFF'S DEPARTMENT  
INFORMANT RECEIPT OF PAYMENT**

INFORMANT NUMBER \_\_\_\_\_

I, \_\_\_\_\_, HEREBY ACKNOWLEDGE THE RECEIPT OF

\$ \_\_\_\_\_ FROM

INVESTIGATOR/DEPUTY \_\_\_\_\_ OF THE ORANGE COUNTY SHERIFF'S

DEPARTMENT ON \_\_\_\_\_ (DATE).

I HAVE BEEN ADVISED THAT ALL MONIES PAID FROM THE ORANGE COUNTY  
SHERIFF'S DEPARTMENT ARE TAXABLE AND SHOULD BE REPORTED ON MY TAX  
RETURNS.

(SIGNED) \_\_\_\_\_

INVESTIGATOR/DEPUTY SIGNATURE \_\_\_\_\_

INVESTIGATOR/DEPUTY WITNESS SIGNATURE \_\_\_\_\_

VOUCHER # \_\_\_\_\_









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## Supervisor's Annual Audit of Active CI's

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1. How long have you known and/or worked with your handler?
2. What is the contact number(s) you have for your handler?
3. Has your handler ever asked you to do anything inappropriate, illegal or that has made you uncomfortable?
4. What type of compensation have you received (i.e. monetary, consideration and/or payment of bills)?
5. If the handler is of the opposite sex was there a second officer present for face to face interactions?
6. Did you sign a receipt when and/if you received monetary compensation?
7. Does your handler ever let you keep or handle drugs?
8. Has your handler ever asked you to do anything that was outside your work and/or your purpose as a confidential informant?

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Unit Supervisor's Signature

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Date

**INVESTIGATIONS DIVISION  
SPECIAL INVESTIGATIONS BUREAU  
ORANGE COUNTY SHERIFF-CORONER DEPARTMENT**

**SECTION: 5-3**

**SUBJECT: CASE MANAGEMENT**

**I. CONCEPTS AND ISSUES**

**A. Purpose**

The purpose of this policy is to provide a uniform case management and tracking process for Special Investigations Bureau personnel. It is intended to ensure that fundamental report writing, follow-up, casework documentation, and case closure procedures are followed in accordance with established Departmental standards. Additionally, it is intended to ensure that all casework is appropriately reviewed and approved in accordance with policy.

**B. Background**

Because of the high volume of casework being performed by Special Investigations Bureau personnel and the many technical legal issues associated with such cases, a uniform, consistent case management process is required to properly document the cases for prosecution as well as guard the Department and its personnel against civil liability. It is also recognized that without specific guidelines and procedures there is a great potential for the mishandling of investigations, the loss of information or the loss of control of evidence.

In addition, it is the policy of the Orange County Sheriff's Department to evaluate information (citizen complaints) received from the public as rapidly as possible. The Orange County Sheriff's Department Special Investigations Bureau units receive numerous tips through "We Tip", direct contact, telephone or mail, and from other law enforcement agencies. A case management system is necessary for the recording and tracking of this information.

**C. Scope of Policy**

This policy is directed to all Special Investigations Bureau personnel and specifically, those involved in the assignment, investigation, documentation, processing, review and approval and filing of gang, narcotics and vice cases.

**D. Accountability**

Proper reporting procedures shall be followed. All personnel involved will be held directly accountable for the **concise, accurate and complete** reporting and review required in the case management process. The Special Investigations Bureau Lieutenant is responsible for ensuring compliance with this order.

**E. Training**

Special Investigations Bureau unit supervisors will ensure that all personnel have been thoroughly briefed and trained on all aspects of this policy. Special attention will be given to newly assigned personnel to ensure they are properly trained and familiar with all aspects of this order. This training will be incorporated in the training program.

**II. POLICY**

The intent of this policy is to provide the guidelines necessary to make certain that Bureau casework is completed, reviewed, approved and processed in a thorough, accurate, and uniform manner.

**A. Investigative Reports**

All reports shall be submitted as soon as reasonably possible. Because of the sensitive nature of Bureau investigations, sometimes it may be necessary to withhold reports for submission to records until all follow-up investigations are completed. Use Sheriff's DR numbers as case number.

1. Initial Crime Report (ICR) – Will be completed for all Bureau investigations occurring in Sheriff's jurisdiction where there is Penal Code or Health and Safety Code listed in the offense section.
2. Follow- Up Report – Will be completed for all Bureau investigations occurring outside the jurisdiction of the Sheriff's Department, initial non-criminal investigations, or follow-up to an on-going investigation.
3. Case Cleared Report – Submitted upon completion of a Bureau investigation. In cases outside of Sheriff's jurisdiction, use the Follow-Up Report Form listing the charge and indicate AOA-Case Cleared, exceptional.
4. Bureau personnel should be familiar with Report Preparation, Policy Section 344 in the Orange County Sheriff-Coroner Department's Policy Manual and Training Bulletin, 09-15, Departmental Report Process.

**B. Processing Citizen Complaints (Documentation)**

1. Information about criminal activity received from citizen informants through "WE-TIP", direct contact, telephone or mail, will be evaluated as rapidly as possible.
2. Logging Information Received (Attachment A)
  - a. Information received from citizen complaints or other law enforcement agencies will be logged for tracking purposes and be given an internal file number (IFN), along with the notation of date and time received.
  - b. The name and contact number of the Reporting Party (R/P) will be obtained. If the R/P is anonymous, then state so.
  - c. Type of criminal activity.
  - d. Location and time of criminal activity.
  - e. Any suspect/vehicle information: general or specific.
3. Assignment of IFN
  - a. Unit supervisor will assign an investigator/deputy to follow-up on the information along with a completion date. This information will be inputted into the IFN Log computer database.
  - b. The investigator/deputy will attempt to verify the information, workload permitting.
4. The investigator/deputy will document the disposition of the investigation.
  - a. Alternatives available:
    - (1) Take no action
    - (2) Information could not be acted on due to case work load or insufficient information was provided for investigation. Record for

future reference should subsequent information develop or case workload permits investigation or turn over to patrol for enforcement action.

- (3) Investigate the suspected activity. Information verified and acted on.
  - (a) Identify suspects.
  - (b) Conduct surveillance.
  - (c) Develop information for search warrant.
  - (d) Write reports and search warrant affidavits.
  - (e) Obtain search warrant and serve.
  - (f) Log evidence and request analysis where appropriate.
  - (g) Obtain formal complaints.
  - (h) Return search warrants.
- (4) Information was determined to be false.

### **C. Case Tracking and Statistical Audit**

1. Bureau Personnel Responsibilities
  - a. Complete follow-up investigation and submit all completed reports in a timely fashion for approval.
  - b. Submit case cleared reports to Sheriff's Records.
2. Unit Supervisor Responsibilities
  - a. Ensure all investigations are completed in a timely fashion.
    - (1) Includes open IFN's for "We tip" and citizen complaints.

- (2) Approval of case investigative reports for submission to records and for presentation to the District Attorney's Office for prosecution.
- b. The supervisor will be responsible for maintaining statistical information of the unit(s).
- c. The supervisor will review the Daily Report (DR) delinquent list monthly. The supervisor will notify their unit personnel when DR's are delinquent and have the affected personnel submit the reports immediately.

# ATTACHMENT A

**INFORMATION REPORTING FORM**

DATE/TIME LOGGED: \_\_\_\_\_ BY: \_\_\_\_\_

REPORTING PARTY: \_\_\_\_\_

CONTACT NUMBER/TYPE: \_\_\_\_\_

TYPE OF ACTIVITY: \_\_\_\_\_

LOCATION OF ACTIVITY:

ADDRESS: \_\_\_\_\_ CITY: \_\_\_\_\_

SUSPECT / ENTITY INFORMATION:

Name: \_\_\_\_\_ Identification #: \_\_\_\_\_

DOB/Age: \_\_\_\_\_ SS#: \_\_\_\_\_

Sex: \_\_\_\_\_ Address: \_\_\_\_\_

Race: \_\_\_\_\_ Vehicle: \_\_\_\_\_

Physical Description: Veh. Lic.: \_\_\_\_\_

Height: \_\_\_\_\_ Weight: \_\_\_\_\_ Hair: \_\_\_\_\_ Eyes: \_\_\_\_\_

Business Name: \_\_\_\_\_

Address: \_\_\_\_\_

MISCELLANEOUS: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**SUPERVISOR**

IFN #: \_\_\_\_\_ INVESTIGATOR ASSIGNED: \_\_\_\_\_

DR #: \_\_\_\_\_ DATE ASSIGNED: \_\_\_\_\_



**INVESTIGATIONS DIVISION  
SPECIAL INVESTIGATIONS BUREAU  
ORANGE COUNTY SHERIFF-CORONER DEPARTMENT**

**SECTION: 5-4**

**SUBJECT: OPERATIONS PLAN**

**I. PURPOSE**

- A.** This section is to adopt a standardized Special Investigations Bureau operations plan for Bureau investigations requiring search or arrest warrant service, surveillance, and narcotics/gun purchases.
- B.** Special Investigations Bureau units will utilize the standard Special Investigations Bureau Operations Plan when tactical operations are planned.
- C.** The Special Investigations Bureau Operations Plan will provide uniformity for all units operating under the Special Investigations Bureau.

**II. POLICY**

- A.** The Operations Plan can be found via the Sheriff's Department Intranet under the Knowledge Center, Documents, SIB Game Plan. (Attachment A)
- B.** All Operation Plans shall address the following:
  - 1. Shots Fired  
Procedures for "shots fired" prior to and after entry shall be addressed at the operational briefing. These areas will include accounting of personnel, providing assistance to those injured and evacuating them; establishing containment and requesting additional resources.
  - 2. Encountering dogs or other vicious animals  
Plans to deal with vicious animals shall be briefed upon to include various methods of force, up to the use of firearms.

3. Fleeing Suspects  
Responsibilities for pursuit of fleeing suspects will be addressed during the operational briefing, to include Departmental vehicle and foot pursuit policies. (Orange County Sheriff-Coroner Departmental Policy Manual, Policy 314 and Policy 458).
4. Barricaded Suspects/Hostage Situation  
In the event of a barricaded suspect or hostage situation, a plan, as briefed on at the operational briefing will go into effect. The unit supervisor will assure that containment and a secure perimeter is established and shall call for additional resources, SWAT and Hostage Negotiations and additional personnel for outer perimeter security and traffic control, if needed.
5. Shooting Policy  
A summary of The Sheriff's Department shooting policy as defined in Policy 300 Use of Force will be included in the Operations Plan.

**C. Considerations**

1. High Risk Tactical Operations  
In the event of an anticipated encounter with armed suspect(s) or fortified structures, a request for SWAT to make entry will be made by the unit supervisor with the concurrence of the Special Investigations Bureau Lieutenant. The briefing will address the responsibilities of SWAT and of Special Investigations Bureau personnel during and after the initial entry.
2. Low Risk Operations  
Low risk operations must be approved by the unit supervisor. The use of an operational plan may be waived by the unit supervisor. However, a briefing will be given by the case agent prior to the operation.
3. Weapons Deployment  
The use of Specialized Weapons (M-4, less lethal) shall be addressed at the operational briefing. Those personnel qualified to operate these weapons will be designated and be responsible to equip themselves as such.

4. Spontaneous searches or arrests under exigent circumstances may preclude the use of a complete operational plan. However, officer safety issues should be addressed prior to the operation.

**D. Operations Debrief**

1. A debrief of completed operations shall be performed by the unit supervisor and case agent with all participating personnel present.
2. The debrief will outline details of the operation both positive and negative that will better insure success for future operations.

# ATTACHMENT A



**ORANGE COUNTY  
SPECIAL INVESTIGATIONS BUREAU  
OPERATIONAL PLAN**

CASE/DR NUMBER		TEAM(S)		CASE AGENT – SURVEILLANCE		CONTACT NUMBER
CO-CASE AGENT		CONTACT NUMBER		PRIMARY CHANNEL		SECONDARY CHANNEL
BRIEFING DATE	TIME	OPERATION DATE	TIME	STAGING DATE	TIME	STAGING LOCATION

**NOTIFICATIONS**

LA CLEAR  LOCAL AGENCY

**TYPE OF OPERATION**

SEARCH WARRANT     SURVEILLANCE     VEHICLE STOP  
 ARREST WARRANT     CI/UC OPERATION     OTHER \_\_\_\_

**TARGET LOCATION**

ADDRESS	TELEPHONE NUMBER
---------	------------------

TARGET DESCRIPTION

PHYSICAL FORTIFICATIONS     FIREARMS PRESENT AT TARGET LOCATION     ANIMALS  
 CHILDREN PRESENT     HIGH LEVEL OF FOOT TRAFFIC     CLOSE PROXIMITY TO SCHOOL  
 TYPE OF DOOR: \_\_\_\_    OPENS:  RIGHT  LEFT     OTHER \_\_\_\_

OCCUPANTS

**CASE BACKGROUND / OBJECTIVES**

BACKGROUND

OBJECTIVES

**SUSPECT INFORMATION**

SUSPECT'S NAME	DATE OF BIRTH	RACE	SEX
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ADDRESS(ES)

SUSPECT DESCRIPTION (*Height, Weight, Tattoos, Scars, Language Proficiency, etc.*)

VEHICLE(S)

SUSPECT(S) KNOWN TO BE ARMED  YES  NO  UNKNOWN PHOTOGRAPH ATTACHED  YES  NO

CRIMINAL HISTORY (*Arrests and Convictions*)

FELONY ARRESTS  FELONY CONVICTIONS  HISTORY OF VIOLENCE  CII #

ADDITIONAL CRIMINAL HISTORY INFORMATION:  
SEE ATTACHED

**CONFIDENTIAL/INFORMANT/UNDERCOVER OFFICER INFORMATION**

CI/UC DESCRIPTION (*Height, Weight, Age, Race, Clothing, Tattoos, Scars, Language Proficiency, etc.*)

CI/UC VEHICLE(S)

UNDERCOVER OFFICER ARMED  YES  NO PHOTOGRAPH ATTACHED  YES  NO

ADDITIONAL CI/UC INFORMATION:

**TACTICAL PLAN**

**CONTINGENCY / ABORT PLANS**

(e. g. Officer Extraction, Barricade/Hostage Situation, Fleeing Suspect(s), Shots Fired, UC / CI Rip-off, etc.)

**UC / CI ARREST / DISTRESS SIGNALS**

**PERSONNEL**

	NAME	CALL SIGN	CONTACT NUMBER	ASSIGNMENT	VEHICLE
1					
2					
3					
4					
5					
6					
7					

8					
9					
10					
11					
12					
13					
14					

**SHOOTING / PURSUIT POLICY:**

Each case agent and team member will be responsible to adhere to their perspective Departments shooting/pursuit policies. Please review/discuss your department's shooting/pursuit policy prior to deploying to the above assignment.

**PARTICIPATING AGENCIES ARE REMINDED TO ADHERE TO THEIR AGENCY'S RESPECTIVE USE OF FORCE POLICY AND PURSUIT POLICY**

*THIS OPERATIONAL PLAN IS A GUIDELINE THAT WILL BE FOLLOWED UNLESS CIRCUMSTANCES AND/OR SUSPECT (S) OR SUBJECT (S) DICTATE THAT THE TEAM ALTER THE PLAN IN A SAFE MANNER. THIS DECISION WILL BE MADE DURING THE OPERATION AND WILL BE BASED ON THE INFORMATION AVAILABLE AT THE TIME. USE ATTACHMENTS AS NECESSARY*

**EMERGENCY INFORMATION**

HOSPITAL/TRAUMA CENTER	ADDRESS	EMERGENCY ROOM PHONE NUMBER

NEAREST FIRE STATION	ADDRESS	FIRE STATION PHONE NUMBER

- |   |  |
|---|--|
| <input type="checkbox"/> AREA MAP/ DIAGRAM OF LOCATION ATTACHED                                 | <input type="checkbox"/> AERIAL/ GROUND PHOTOS ATTACHED            |
| <input type="checkbox"/> SUPPORTING DOCUMENTATION ATTACHED<br>(e.g. Search/Arrest Warrant Copy) | <input type="checkbox"/> SUSPECT(S) / SUBJECT(S) PHOTO(S) ATTACHED |

**PLAN APPROVALS**

PLAN PREPARED BY	DATE 12/8/16
PLAN / REVIWED APPROVED BY	DATE

**INVESTIGATIONS DIVISION  
SPECIAL INVESTIGATIONS BUREAU  
ORANGE COUNTY SHERIFF-CORONER DEPARTMENT**

**SECTION: 5-5**

**SUBJECT: SEARCH WARRANTS**

**I. INTRODUCTION**

**A. Purpose**

The purpose of this section is to provide guidelines for supervisors, as well as, instructions for Special Investigations Bureau personnel in securing search warrants, searching, handling of evidence and videotaping.

**B. Background**

The Vice, Narcotics, and Gang Units are responsible for obtaining search warrants and arrest warrants, conducting probation and parole searches regarding vice, narcotics and gang investigations and occasionally conduct “Knock and Talks” and consent searches.

Because of the nature of these investigations, it is imperative that certain procedures outlined in this section be followed to ensure officer safety and minimize citizen complaints and allow for successful prosecution of cases.

**C. Scope of Policy**

These procedures apply to all Special Investigations Bureau personnel when obtaining and serving search and arrest warrants

**D. Accountability**

All sworn Special Investigations Bureau personnel shall be held accountable with adherence to these procedures when performing the above mentioned investigative activities.

**E. Training**

It shall be the responsibility of the unit supervisors to ensure all personnel under their supervision are aware of these procedures.



## II. POLICY GUIDELINES

### A. Introduction

Advantages to obtaining a search warrant:

1. The solution of doubtful or marginal cases should largely be determined by the preference accorded to warrants.
2. The vast majority of criminal cases filed that include a search warrant as part of the investigation, result in a conviction.
3. A search warrant is presumed valid and there is a strong reference favoring the validity of a search warrant. The burden of proof shifts to the defense to prove that a search warrant is invalid.
4. “Ramey” does not become an issue because you are judicially authorized to be in a location to search and make an arrest.
5. The withdrawal of consent is not an issue if a search warrant is obtained over a consent search.
6. Generally, confidential informants are not discoverable if they are used only for the probable cause in the search warrant and are not percipient to the issue of guilt in a charged offense.

### B. Background

Both federal and state search and seizure issues have their basis in the Fourth Amendment to the United States Constitution:

“The right of the people to be secure in their persons, homes, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, upon probable cause, supported by oath or affirmation and particularly describing the place to be searched, and the person or thing to be seized.

The Fourth Amendment is only one sentence without the benefit of a colon or semi-colon, conveying one major idea; all searches and seizures should be executed pursuant to a **warrant**, except for two well recognized exceptions.

1. Exigencies – situations that demand immediate action by law enforcement officers to protect persons, property, or evidence. The following are examples:
  - a. Searches incidental to a lawful arrest.

- b. Detention not amounting to an arrest.
  - c. Car searches – pursuant to U.S. vs. ROSS, once the contraband or evidence is detected, a search may be as “thorough as that authorized by a magistrate.”
  - d. Hot pursuit.
  - e. Medical emergencies.
2. Forfeiture of an expectation of privacy
- a. Consent - use the Search Consent Form.
    - (1) No MIRANDA warning is needed. Failure to advise may work against you, if possible, MIRANDIZE.
    - (2) No need to advise of the right to refuse.
    - (3) Third parties with standing may consent.
  - b. Plain sight – open field
    - (1) U.S. Supreme Court decision authorizing flyovers within the stated parameters.
    - (2) Probation search.
      - (a) Search and seizure may be a condition of probation.
      - (b) Probation conditions are strictly construed – the exact wording is important and followed.
      - (c) Must have suspicious activity, unless there is a specific condition.
    - (3) Parole search.  
Must be related to parole administration.
    - (4) Arrest warrant issued.
      - (a) A search warrant is not needed for the arrestee’s residence or public part of a building open to the public.

**C. Search Warrant Definition**

A search warrant is an order of the court in writing; in the name of the people, signed by a magistrate, directed to a peace officer, commanding him/her to search for a person(s), a thing(s) or personal property, and in the case of things(s) or personal property, bring it before the magistrate (Pen. Code 1523.)

**D. Statutory Grounds for Issuance**

When the property:

1. Was stolen or embezzled.
2. Was used as a means of committing a felony.
3. Is possessed by a person with the intent to use it as a means of committing a public offense or is in possession by another to whom he or she may have delivered it for the purpose of concealing it or preventing its discovery.
4. Tends to show that a felony has been committed or that a particular person has committed a felony.
5. Tends to show the sexual exploitation of a child in violation Penal Code Section 311.3, or possession of matter depicting sexual conduct of a person under the age of 18 years, in violation of section 311.11 has occurred or is occurring.
6. There is a warrant to arrest the person. [See Steagald vs. United States (1981) 451 U.S. 204]
7. When a provider of electronic communication service or remote computing service has records or evidence, as specified in Section 1524.3 showing that property was stolen or embezzled constituting a misdemeanor, or that property or things are in the possessions of any person with the intent to use them as a means of committing a misdemeanor public offense, or in the possession of another to whom he or she may have delivered them for the purpose of concealing them or preventing their discovery

NOTE: 2, 4 and 5 apply to felonies

1 and 3 apply to misdemeanors

**E. Magistrates**

Judges of Superior Courts in the Justice Centers within Orange County.

**F. Jurisdiction**

1. A magistrate may issue a search warrant for any location within the county in which he or she sits.
2. A magistrate may issue a search warrant for any location within the State of California, as long as it relates to an offense that is triable within the county in which the magistrate sits.

**III. SEARCH WARRANT COMPONENTS**

**A. Affidavit**

A statement made under the penalty of perjury before a magistrate.

1. The affidavit must set forth the facts tending to establish the grounds for the application or probable cause for believing they exist.
2. The affidavit must state the facts establishing the probable cause for the seizure of the described items at the described location(s).
3. The affidavit incorporates a statement of probable cause which should include:
  - a. A recitation of the affiant's training and experience.
  - b. A factual basis in a narrative form and in chronological sequence.
  - c. The affiant's conclusions – the conclusions must be supported by the facts contained in the affidavit and the affiant's expertise.

**B. Description**

1. General Rules
  - a. Describe with reasonable particularity.
  - b. It is better to over-describe than under-describe.
  - c. A peace officer with no knowledge of the case should be able to serve the search warrant and locate the listed location and the listed property within.
  - d. There is no limit to the number of locations, vehicles, or persons which may be searched pursuant to a single search warrant as long as the probable cause for each is enumerated in the Statement of

Probable Cause. There is severability of locations, vehicles, and persons, if adequate probable cause is later found insufficient.

2. Residences

- a. Include the complete address (including N., S., E., & W.) city, county, and state.
- b. Description of the exterior of the residence, color, roof, number of stories, single family, duplex, apartment, etc., detached or attached garage, numerical identifiers and their location and description. Be sure to incorporate who obtained the descriptive information.
- c. Include a phrase that encompasses any attics, basements, storage areas, outbuildings, surrounding grounds at the location to be searched.
- d. Be more detailed if the location to be searched is not clearly or specifically marked.

3. Businesses

- a. The same general rules apply as in describing a residence, but not in as much detail. Businesses, by their nature, generally are more identifiable.
- b. Often the business will contain the place or object to be searched:
  - (1) Safety deposit - bank.
  - (2) Luggage – airport, bus station.
  - (3) Telephone records – the telephone company.

4. Vehicles

- a. Include the color, year, make, model, and license number.
- b. It is proper to include the phrase, “believed to be at or near.”
- c. The vehicle may still be searched wherever it is located.

5. Persons

- a. Include the name, sex, race, date of birth or age, height, weight, hair color, and any distinguishing marks, if known.

b. As with vehicles, a probable location is desirable, if known.

6. Special Locations

a. Newsroom – “newsman’s privileges.”

Items NOT seizeable pursuant to a search warrant include unpublished information such as notes, outtakes, photographs, tapes, or other information not previously disseminated to the public.

b. Offices of doctor, attorney, clergy, or psychotherapist.

(1) “Special Master” may be required.

(a) Used if the specific person is not suspected of the criminal activity under investigation.

(b) The “Special Master” is a member of the California State Bar, serves without compensation, and is appointed by the court.

(2) The concern is for the “privileged communications” of the specified person(s).

c. Crime scenes

(1) A search warrant is required to conduct any search of a crime scene, absent consent or exigent circumstances.

(2) Consent is almost always obtained when the crime scene has a victim or a non participant (having authority to permit a search) because they are willing to assist law enforcement in their investigation.

(3) A search warrant is most often needed when the crime scene involves the suspect’s residence or property.

**C. Property to be Seized**

1. In describing the property, be as specific and thorough as possible, including colors, sizes, model numbers, and serial numbers, if known. Otherwise, the warrant becomes a “general exploratory warrant” and invalid.

2. List and describe every item for which probable cause exists.
  3. Stolen property
    - a. Stating “all stolen property” is vague and insufficient.
    - b. If the list is extensive, the list from the crime report may be incorporated into the search warrant affidavit.
    - c. A drawing or photographs may also be incorporated.
  4. Narcotics investigations
    - a. Describe specific controlled substances being sought.
    - b. Include narcotics paraphernalia.
    - c. Include Paperwork and indices indicating ownership or control of location.
    - d. Include scales and packaging material.
    - e. Include pay/owe sheets.
    - f. Include cash or monies from narcotics sales.
  5. Bank records
- Generally take more than the normal ten day service and return.
6. Electronic Communications and Records Searches (CalECPA)
    - a. **Electronic Communication Information** (Phone and Internet)

Electronic Communication Information is defined as any information about an electronic communication or the use of an electronic communication service, including, but not limited to, the contents, sender, recipients, format, or location of the sender or recipients at any point during the communication, the time or date the communication was created, sent or received, or any information pertaining to any individual or device participating in the communication, including, but not limited to, an IP address.

Electronic communication information does not include subscriber information.

- b. A search warrant, wiretap order or subpoena must be used to obtain Electronic Communication Information, such as unpublished numbers, records of phone tolls and billing information without specific exceptions. CalECPA prohibits:
  - 1. Deputies/ Investigators from compelling Electronic Service Providers (i.e. AOL or Verizon) to produce electronic communication information
  - 2. Deputies/ Investigators from compelling the production of or access to electronic device information.
  - 3. Deputies/ Investigators from directly accessing device information unless there is danger of death or serious physical injury.
- c. The particular phone number or electronic information sought must be described with particularity and have some part in the criminal investigation. Specify the time periods covered and if appropriate include the target individuals or accounts, applications or services covered and the types of information sought.
- d. The warrant shall require that any information obtained through the execution of the warrant that is unrelated to the objective of the warrant shall be sealed and not subject to further review, use or disclosure without a court order.
- e. The government entity is required to provide notice of the warrant for any Electronic Communication Information. Notice must be made contemporaneously with the service of the warrant. The search warrant should contain a “Certification of Non-Disclosure,” if the notification of the subscriber would impede the criminal investigation. The usual limit is 90 days, plus extensions.
  - 1. If the individual that a deputy/ investigator has to make notification on is unidentified or anonymous the Department of Justice needs to be notified within 3 days.
- f. The phone companies may be notified in advance, prior to the issuance of the warrant, and they will have the requested information immediately available, avoiding the need for an extension from the court.



g. The remedy for a violation of CalECPA is suppression and/ or civil liability.

7. Credit card information

A sufficient time period should be included for this type of records sought.

8. Persons for which an arrest warrant has been issued.

a. Officers attempting to serve an arrest warrant in a third party residence must obtain a search warrant (Steagald) to search for the person named in the warrant.

In the above described circumstances, if the arrest warrant is served without the benefit of a search warrant, any incriminating evidence found relating to any crime would fall under the “Exclusionary Rule.”

b. Consent or exigent circumstances would still permit the arrest of the person named in the arrest warrant in the third party residence without jeopardizing the validity of any evidence that may be seized.

**D. Statement of Probable Cause**

1. Expertise Statement – Hero Clause

a. Should be pre-written and tailored to the detail assigned. It may be typed on plain white paper labeled “Statement of Probable Cause” and becomes the first page of the Statement of Probable Cause and attached to the Search Warrant and Affidavit Form.

b. The more expertise you have on paper, the wider the range of expert opinions you can render, and the more weight that is given those opinions.

c. Introduce yourself to the court, including your rank, assignment, and years of law enforcement experience.

d. State any assignment you have had that relates to the types of investigations in which you are currently attempting to document in your expertise statement.

- e. Approximate how many of those investigations you have been involved in (if you assisted, or were even there and observed anything you were involved in).
- f. Approximate how many arrests for the related offenses you have been involved in. It is better to under-state than over-state the number investigations and arrests.
- g. Attempt to include the phrase, “I have worked and conferred with experienced officers in (number of investigations) during the last (number of) years and have drawn from their knowledge and expertise.”
- h. Include your formalized education at the college level or above, including any degrees.
- i. Include a general recitation of your law enforcement education, such as basic and advanced academies, any specialized training, schools and seminars attended.
- j. Finish your expertise statement with a concluding paragraph that ties your “training and experience” together and enhances your “expert opinions” based on the conclusions drawn from the stated facts and observations.

**E. Factual Basis**

- 1. This portion sets forth the facts leading to the belief that the items sought will be found at the location to be searched.
- 2. A chronological narrative in the first person is best.
- 3. The factual basis should contain the personal observations of the affiant and any information which he/she has received from other sources relevant to establishing probable cause for the search warrant.
- 4. The reliability of the stated information must also be stated.
- 5. The Spinelli/Aguilar test (“two prong” test)
  - a. The first (factual basis) prong requires that the informant’s statement be:

- (1) Factual
  - (2) Based upon personal knowledge.
  - b. The second (reliability) prong requires that the affidavit show that:
    - (1) The informant himself is credible
    - (2) The information is reliable
  - c. The Spinelli/Aguilar test is no longer the rule for establishing probable cause in a search warrant, and has been replaced with the ILLINOIS vs. GATES decision which deals with the “totality of the circumstances.” The Spinelli/Aguilar test is the standard for probable cause that should first be followed in writing a search warrant.
6. Credibility of informants in search warrants.
- a. Peace officers – considered credible by virtue of their occupations.
  - b. Citizen informants.
    - (1) Chance witness to or victims of crime.
    - (2) Innocent of criminal involvement.
    - (3) Motivated by good citizenship.
    - (4) Facts must be stated in the “Statement of Probable Cause” by which the magistrate can conclude the informant is a “citizen informant.”
    - (5) Should be considered reliable.
  - c. Tested reliable informants.
    - (1) Usually have criminal associations.
    - (2) Has provided factual information in the past which has been corroborated by investigation and/or led to arrest(s).

Generally detail the number of times a “CRI” (confidential reliable informant) has provided factual information in the past.

- (3) Attempt to corroborate their information.
  - d. Untested informants.
    - (1) The information, which may be from an anonymous phone call, an unsigned letter, or from an untested criminal defendant informant, is not reliable by itself.
    - (2) If the provided information can be corroborated by other facts indicating the reliance on the information is reasonable, then the information is considered reliable for search warrant purposes.
  - e. Official information.
    - (1) DMV., vs. CII, public phone records, information from the U.S. Post Office, tax records, property records, etc.
7. ILLINOIS vs. GATES – “Totality of the Circumstances.”
- a. The current standard in search warrants formally abandons the “two prong” test.
  - b. The magistrate now views “the totality of the circumstances” in a “common sense” manner to make probable cause determinations.
  - c. The magistrate is to consider everything, including the “basis of knowledge” and “veracity” of persons supplying hearsay information.
  - d. The magistrate then determines if there is a “fair probability” that the contraband or evidence will be found in a particular place.
  - e. An attempt should first be made to satisfy the “two prong” tests, which are a more stringent standard than the “totality of the circumstances.” If that standard is met or closely approached, probable cause for the issuance of the warrant should be sufficient.
8. Proposition 8 – “The Victims Bill of Rights.”
- a. Effective date of June 9, 1982.
  - b. Adopts the federal standards of search and seizure to California which in turns creates the nexus for ILLINOIS vs. GATES, a U.S. Supreme Court case.

9. Other Considerations.
  - a. If there is no other way to prove the credibility of an informant, he/she may be sworn before and examined by the magistrate to enable the magistrate to assess his/her reliability.
  - b. Double hearsay is acceptable in search warrant affidavits as long as the reliability is maintained.
  - c. If the informant supplied information can be corroborated, it can be deemed reliable. The corroboration may be by non-criminal conduct of the suspect. Anytime an informant is used, attempt to corroborate his/her information.
  - d. If the informant supplied information is sufficiently detailed, it can be inferred that it is based on personal knowledge.
  - e. Do not let informant information grow stale during the on-going investigations without “freshening it up.” In a narcotics case, one week should be the limit between the controlled buy and the search. The information can be updated by additional buys or surveillance, or by any other means of establishing that the suspected activity is still occurring or that the evidence sought will still be at the location to be searched.
  - f. Official police reports may be incorporated by reference as exhibits in affidavits to help in establishing probable cause. This saves the affiant from recounting the facts of the crime under investigation.

#### **F. Conclusion**

1. This statement should “connect up” all locations, vehicles, and persons to be searched with every listed item to be seized.
2. Each item sought, as well as, every location, vehicles and persons to be searched must be justified within the Statement of Probable Cause.
3. If you do not have the “expertise” to render the desired “expert opinion,” find another law enforcement officer who does have the expertise.
  - a. Have that officer review the investigation.
  - b. Have that officer review the Statement of Probable Cause.

- c. Ask him/her to render an opinion. It should support your opinions and conclusions.
  - d. State his/her opinions and conclusions within your Statement of Probable Cause and the search warrant.
4. Include in the concluding statement, “It is my opinion, based on training and experience and the facts set forth in this Statement of Probable Cause, the items sought will be found at the places indicated and described within this search warrant.”

#### IV. NIGHTTIME SERVICE

- A. A nighttime search is between 10:00 p.m. and 7:00 a.m.
- B. The search warrant must contain a statement or “direction” indicating a nighttime search is authorized.
- C. A nighttime search must be supported by “good cause” in the Statement of Probable Cause or in a separate supporting affidavit. “Good faith” exceptions also apply to invalid nighttime search directions.
- D. The magistrate must sign, initial, or “X” the appropriate box for authorization for Nighttime Service.
- E. A showing of “Good Cause” for a nighttime search.
  - 1. A “nighttime operation” in which the contraband or evidence will become non-existent or significantly diminished if a search is not made before 7:00 a.m.
  - 2. Additional suspects or associates are still outstanding that may learn of the arrest and hide or destroy the evidence or contraband sought.
  - 3. If the officers are in the location to be searched (suspect arrested on an arrest warrant, hot pursuit, etc.), a nighttime search may be justified.
    - a. Other persons in the location may destroy the evidence or contraband.
    - b. The occupant’s expectation of privacy is no longer valid.
  - 4. If the location to be searched is unoccupied, there is nobody to disturb during a nighttime search. There should be a specific reason to request an immediate search, such as officers already within the location.

5. Items in a location to be searched that may lose their evidentiary value due to evaporation, chemical decomposition, or consumption, such as gasoline, acetone, or food stuffs, respectively.
6. If a suspect discovers an investigation and would dispose of the items sought.
7. CPC 1533. When establishing “good cause” under this section, the magistrate shall consider the safety of the peace officer serving the warrant and the safety of the public as a valid basis for nighttime endorsements.

## **V. FAXED/EMAIL SEARCH WARRANTS**

With the advancement in technology deputies and investigators are able to obtain approval of a magistrate for the issuance of a search warrant while in the field. This can be accomplished by either faxing or emailing the search warrant to the magistrate after approval from the reviewing Deputy District Attorney.

- A.** Complete the search warrant as outlined in this section and fax or email the search warrant package to the Deputy District Attorney for approval.
- B.** Fax or email the approved search warrant to the magistrate. The magistrate will return the approved search warrant.
  1. Mark “Duplicate Original” on the top of the faxed copy or on the top of the printed copy of the email search warrant.
  2. After service of the search warrant, return the original along with the “duplicate copy” to the magistrate at the time of the return of Search Warrant. Both copies will be placed into the court package.

## **VI. TELEPHONIC AFFIDAVITS**

- A.** In Telephonic Affidavits, the search warrant portion is written out and the affidavit portion is made orally to the magistrate, either in-person or via a telephone conference call. These are seldom used anymore.
- B.** Telephonic affidavits
  1. Normally used when court is not in session.
  2. Prior to initiating the telephonic search warrant procedure, the affiant should have:

- a. An original Search Warrant form filled out, unsigned and undated.
  - b. A duplicate original Search Warrant form filled out, unsigned and undated.
  - c. The necessary notes, outline, rough draft, etc., to make an oral affirmation as to the probable cause for the issuance of the search warrant.
3. Follow the procedures as described on the rear of the Telephonic Search Warrant form.
  4. The recording which contains the oral affidavit in support of the search warrant should be booked into evidence.
  5. It is the affiant's responsibility to:
    - a. Retrieve the recording from property.
    - b. Make a "working copy" of the recording.
    - d. Have the entire recording transcribed from the working copy.
  6. The affiant should review and correct the transcript and then contact the deputy district attorney who assisted in the conference call and permit him/her the opportunity to review and correct the transcript.
  7. The original recording, original transcript of the oral affidavit, original search warrant, original duplicate search warrant, Oral Affidavit Certification form and the Return Search Warrant (unsigned) should then be returned to the issuing magistrate who will in turn:
    - a. Sign the original search warrant.
    - b. Review the recording and transcript.
    - c. Date and sign the Certification form.
    - d. Swear the executor of the search warrant.
    - e. Sign the Return to Search Warrant.
    - f. Have the executor sign the return to Search Warrant.



- g. All the documents, including the original cassette tape, should be filed with the criminal clerk of the court from the issuing court. The clerk will complete the Oral Affidavit Certification form.
- 8. Obtain a “certified copy” of all the search warrant documents from the clerk, for later criminal proceedings.

## VII. PREPARATION OF A SEARCH WARRANT

### A. Preparation by the Affiant

- 1. If possible, obtain your own descriptions for the premises, vehicles and persons.
- 2. Prepare the Search Warrant Affidavit form by completing the appropriate blanks.
  - a. Name of the affiant.
  - b. Nighttime service request CPC 1533 (“X” yes or no).
  - c. Name of the affiant (search warrant section)
  - d. Grounds for seizure CPC 1524 (“X” appropriate blanks).
  - e. Premises, vehicles, persons to be searched.
  - f. Property to search for.
- 3. Do not sign the affidavit section of the form where the form indicates “signature of affiant.” This must be done under oath and before the magistrate.
- 4. The magistrate will fill out the magistrate information at the bottom of the form.
- 5. Write the Statement of Probable Cause to include:
  - a. Affiant’s expertise. (Hero Statement).
  - b. Factual basis in chronological narrative form.
  - c. Conclusions and opinions – may be pre-written. Do not forget to “connect up” your information. This is the biggest single mistake made in preparing the Statement of Probable Cause.

6. At the conclusion of the Statement of Probable Cause, write in the center of the page, “End of Statement of Probable Cause.”
7. Attach all exhibits.
  - a. Be certain they are incorporated by reference in the Statement of Probable Cause.
  - b. The exhibits must be clearly labeled and legible.
8. Proof read.

**B. Review by a Deputy District Attorney**

1. Present the entire document, including any statements.
2. Small changes may be written in and initialed by the affiant.
3. The Orange County Deputy District Attorney may sign the document at the end of the “Statement of Probable Cause” to indicate to the magistrate that he has read and reviewed it.

**C. Presenting the Search Warrant and Affidavit to a Magistrate**

1. The magistrate will read the entire document, page by page.
2. If the magistrate feels there is probable cause for the search, he/she will swear the affiant.
3. The affiant then signs the affidavit portion of the document.
4. The magistrate will then sign and date the search warrant portion of the document. If nighttime service was requested, be certain the magistrate has made a finding regarding the authorization.
5. The search warrant is now ready to be served.

**D. Making Copies**

After the signatures of the magistrate and affiant.

1. Prepare sufficient copies of all documents.
  - a. Affiant and/or case agent.
  - b. Deputy district attorney – case file.

- c. Defense attorney(s) – if case is filed.
2. Prepare copies of the Search Warrant and Affidavit Form. (Unsealed)
    - a. This does not include the Statement of Probable Cause.
    - b. Make sufficient copies for multiple locations, vehicles and persons.
    - c. Present a copy at each place the search warrant is served.
      - (1) This may help alleviate resistance by persons at the locations searched.
      - (2) Displaying a copy of a signed search warrant makes your authority clear.
      - (3) There is no statutory or case law requirement to leave a copy of the search warrant.

## VIII. SEARCH WARRANT SERVICE

- A. A search warrant must be served and returned within 10 days after the date of issuance.
  1. Ten days is ten calendar days, not court days.
  2. If the tenth day falls on a weekend or holiday, the warrant must be returned the next court day.
  3. A search warrant served anytime within the ten day period shall be deemed served in a timely manner. For practical purposes, serve the warrant as soon as possible.
  4. It is not necessary for the affiant to be the one that executes the warrant. In the case of multiple locations, several officers will execute the warrant at different locations. Every officer that executes the warrant must complete the Return to Search Warrant form and appear before the court to swear the accuracy of the Return of Search Warrant.
- B. **“Freezing” a Location before a Search.**
  1. If a suspect is lawfully arrested within the location (arrest warrant, hot pursuit, etc.), officers may remain within the location pending application and arrival of a search warrant.

2. If a suspect's associates, after learning of the arrest, go to a location in an apparent attempt to dispose of evidence or contraband, officers may enter and secure the location in order to preserve evidence and await the search warrant.
3. Any exigent circumstances that would justify entry into a location, would also justify officers remaining within the location if probable cause for a search warrant is found.
4. Officers are not permitted to create their own exigent circumstances to justify freezing a location, such as, asking the occupant for consent to search, and if denied, entering and freezing the location under the theory of exigent circumstances.

**C. Pre-planning the Search Warrant Execution**

1. The case agent should develop a plan for the orderly service of the warrant.
  - a. Perimeter security.
  - b. Entry Team – If possible, include a uniformed officer so there are no questions of identity or authority.
  - c. Prisoner security.
  - d. Required specialist.
    - (1) Sheriff's Forensic Specialist – for fingerprints and photographs.
    - (2) Sheriff's Criminalist.
    - (3) Orange County Animal Control.
    - (4) Sheriff's Hazardous Device Squad.
  - e. Proper raid gear for non-uniformed officers.
  - f. Search teams.
  - g. Finder, collector, recorder.

- h. If possible, video record the location searched, to document the condition of the location immediately after entry and then after service of warrant.
2. Knock and Notice requirements (P.C. 1531)
  - a. Identify yourself and department.
  - b. State your purpose.
  - c. Demand entry.
  - d. Consider a second language.
  - e. If you are refused admittance, you may force entry after a reasonable amount of time.

**D. Non-Compliance with Knock and Notice**

1. Non-compliance cannot be judicially authorized in advance of a search warrant service.
2. Officers need not comply if there is a reasonable belief the occupants are armed and dangerous and will resist.

**E. Partial Compliance with Knock and Notice**

1. If it becomes apparent by their actions that the occupants are refusing admittance.
2. If it appears the occupants are arming themselves.
3. If it appears the occupants are destroying evidence.

**F. Ruse to Gain Entry**

1. There is no statutory or case law prohibiting such conduct. Officer safety should always be considered.
2. Utilizing a delivery man or utility company uniform.
3. Make the knock and notice as the actual entry is being made.

**G. Conducting the Search**

1. After the location is secure, consider giving the occupant a copy of the search warrant (NOT THE STATEMENT OF PROBABLE CAUSE) or leaving a copy if no one is present.
2. Include in the items to search for, “indices of occupancy, such as utility company receipts, rent receipts, mortgage payment receipts, canceled mail, etc.”
3. Officers should conduct a thorough and methodical search, room by room or area by area.
4. Officers may enlist the aid of victims or civilian experts if necessary to aid in the search.

All persons participating must have read the command and direction of the search warrant. They must know specifically what items they are authorized to search for by the magistrate, or the search may be characterized as “general search” which is prohibited by the Fourth Amendment.

5. If an item is seized that is not listed in the warrant, it must be shown that it is tied to criminal activity.
6. A Receipt and Inventory form containing a list of all items seized **MUST** be left at the location at the conclusion of the search.
  - a. Yellow copy is left at location.
  - b. Other two copies are retained by the case agent, and then distributed appropriately.

**H. Piggy-backing a Warrant – Amending a warrant.**

1. Often during a search, evidence is found which gives an officer probable cause to search another location.
2. Prepare another Search Warrant and Affidavit form.
3. Prepare another Statement of Probable Cause form.
4. Incorporate by reference and attach a copy of the original search warrant and affidavit and a copy of the original Statement of Probable Cause form to the new search warrant.

5. Attempt to use the same deputy district attorney and magistrate who are familiar with the facts of the original warrant.
6. Consideration should be given to making a telephonic, oral affidavit or using email to secure the warrant.

**I. Answering the Telephone during the Search**

1. This should be specifically authorized on the search warrant.
2. If not authorized, officers may still answer the phone if it is related to the crime under investigation.

**J. Covert Search Warrants (“Sneak and Peek”)**

1. Commonly known as “sneak and peek” warrants. There is no statutory provision for a “sneak and peek” search warrant in California or any case law that sets a precedent to allow such warrants. California “sneak and peek” warrants rely on Federal case law.
2. Authorizes officers to enter a home or business when no one is present, conduct a search for certain evidence, usually photograph or videotape it, then leave.
3. Delays Notice Requirement for a period of time.
  - a. Federal case law allows for covert entry with a “reasonable delay” in notification.
  - b. Federal case law suggests a 30 day delay based on the premise that an investigation will be concluded in that amount of time.
4. Procedure
  - a. Demonstrate reasonable necessity: Like any search warrant affidavit, an affidavit for a covert entry warrant must establish probable cause to believe the evidence officers want to look for is on the premises. It must also include a section in which officers demonstrate that a covert entry warrant is reasonably necessary, a “sufficient showing” for the need of such a warrant. In other words, the affiant must at least satisfy the issuing authority that there is good reason for delay in notification. It is important to understand that reasonable necessity does not exist merely because a covert search would facilitate the investigation or otherwise be

helpful to the officers. Instead, covert entry warrants should be sought very selectively and only when absolutely necessary.

- b. List evidence and place to be searched: Like any search warrant, a covert entry warrant and the affidavit in support of the warrant must contain a description with "reasonable particularity" of the evidence officers want to look for and the place they want to search.
- c. Add special instructions: Special instructions must be added to the search warrant so it is clear the court is authorizing a covert entry warrant.
  - (1) Include in the affidavit, a provision for a minimum of delay in notice (30 days): The handling Deputy District Attorney may allow more time for delay of notification or require a more restrictive delay in notification.
  - (2) Also include appropriate restrictions during the search, such as, no seizure of evidence other than photos or samples.

5. Obtaining extensions:

The magistrate may grant extensions of the notice requirement but only if officers submit a new affidavit containing specific circumstances that demonstrate good cause for the extension. As the U.S. Court of Appeals explained, "For good cause, the issuing court may thereafter extend the period of delay. Such extensions should not be granted solely on the basis of the grounds presented for the first delay; rather, the applicant should be required to make a fresh showing of the need for further delay."

**IX. RETURN TO SEARCH WARRANT**

- A. The "Search Warrant Return" should be made within the ten day period after the date of issuance of the search warrant.
  - 1. A delay in the return does not necessarily invalidate the search warrant. The defendant must be able to show actual prejudice in a delay to invalidate the search warrant.
  - 2. An extension may be requested from the court of issuance in the form of an affidavit setting forth the facts of non-compliance.
- B. **Return Package**
  - 1. The original search warrant affidavit.



2. The original statement of probable cause.
3. An inventory of all items seized.
4. The original Return to Search Warrant.
  - a. The receipt and inventory form may be incorporated in the Return to Search Warrant by reference and the original receipt and inventory attached.
  - b. Do not sign the Return to Search Warrant; this must be done in the presence of the magistrate, under oath.
5. Return package to the court.
6. First preference should be given to returning the package to the issuing magistrate.
7. Second preference is to the court of issuance. The presiding judge of that court would be next choice.
8. The final choice is any court where the offense is triable.
9. The magistrate will then swear the executor of the warrant that the inventory is a true and complete list of all items seized during the execution of the search warrant.

**C. Return Package to the Criminal Clerk of the Court.**

1. The entire package is then filed with the criminal court clerk of the court of issuance.
2. At the time of this filing, request a “certified copy” of the package and retain it for later court proceedings.

**D. Property Release**

1. Property seized pursuant to a search warrant may not be released except by order of the court.
2. Consult with the assigned Deputy District Attorney before releasing property.
  - a. It may be needed as evidence during future criminal or civil proceedings.

- b. The time parameters for the appeal process may not have been expired.

**E. Civil Liability**

1. The affiant that obtained the search warrant can be held civilly liable if it was later determined that erroneous information was used or no probable cause existed for the issuance of the search warrant.
2. State and federal court decisions give the issuing magistrate and the deputy district attorney immunity from these civil liabilities.

**X. SEARCH PROTOCOL**

- A. Members of this department will conduct person searches with dignity and courtesy.
- B. Members of this department will conduct property searches in a professional manner.
- C. Members of this department should attempt to gain keys to locked property when a search is anticipated and the time and effort required to gain the keys makes it a practical option.
- D. When the person to be searched is of the opposite sex of the deputy/ investigator a deputy/ investigator of the like sex should be summoned to the scene to conduct the search.
- E. A search may be undertaken of a member of the opposite sex when it is not practical to summon a deputy/investigator of the like sex. In these instances the Special Investigations Bureau personnel will adhere to the following guidelines:
  1. A supervisor and/or one other deputy should witness the search, if practical.
  2. Deputies will use the back side of their hands and fingers to search sensitive areas of the opposite sex to include the breast, crotch and buttocks areas.
- F. Special Investigations Bureau personnel will explain to the person being searched the reason for the search and how the deputy will conduct the search.

**INVESTIGATIONS DIVISION  
SPECIAL INVESTIGATIONS BUREAU  
ORANGE COUNTY SHERIFF-CORONER DEPARTMENT**

**SECTION: 5-6**

**SUBJECT: HOBBS WARRANTS**

**I. CONCEPT AND ISSUES**

**A. Purpose**

The purpose of this section is to establish policy and guidelines when a “Hobbs Warrant” is submitted.

**B. Scope**

This policy is intended for all Special Investigations Bureau personnel involved in the writing and submission of a “Hobbs Warrant.”

**C. Accountability**

The Affiant of a “Hobbs Warrant” is responsible for the documentation and the delivery of the warrant to the appropriate court.

**II. POLICY**

In *People v. Janet Marie Hobbs* (1994) 7 Cal.4<sup>th</sup> 948, the California Supreme Court held that all or part of the information in a search warrant affidavit provided by an informant (who is not percipient to the allegations) may be sealed to protect the informant’s identity for his/her protection or to protect the integrity of a current or future investigation. The sealed information is subject to an in camera review, should the defendant move to traverse or quash the warrant.

The affiant shall complete the search warrant and affidavit and Statement of Probable Cause to include all necessary attachments including the “Hobbs” request to the District Attorney’s Office for approval. The affiant shall request in the Statement of Probable Cause to seal all or portions of the search warrant referring to the attachment of the “Hobbs” request and justification for the request to seal the warrant.

Once the search warrant is signed off by a Deputy District Attorney, the affiant will seek approval from a judge. Once the court approves the search warrant with authorization

to seal all or portions of the warrant, the affiant will file the search warrant with the clerk of the court. The sealed warrant will be retained by the clerk of the court.

Once the search warrant has been served, the Affiant will complete the return to search warrant signed by the issuing judge and file the return with the clerk of the court.

### III. PROCEDURE

- A. All related search warrant documents become part of the public record following execution and return of the search warrant.
- B. Pursuant to case law PEOPLE vs. HOBBS (1994) 7 Cal.4<sup>th</sup> 948, an affidavit may be sealed until further order of the court, if:
  - 1. The lives and safety of undercover officers and/or informants would be jeopardized.
  - 2. The informant's ability to assist law enforcement in this and/or other investigations would significantly be impaired.
- C. Necessary Documents.
  - 1. Affidavit of the officer requesting the sealing order. Sets forth the facts to support the sealing order and if only a portion is to be sealed, incorporate as an attachment.
  - 2. Request for order sealing search warrant documents. Made by deputy or investigator. (**Attachment A**)
  - 3. Order sealing search warrant documents.
    - a. Signed by a magistrate.
    - b. Generally directs the documents to be kept in the custody of the criminal clerk of the court, and not be made public until further order of the court.

# Attachment A

STATE of CALIFORNIA, COUNTY of ORANGE

**DECLARATION and REQUEST for ORDER**

**SEALING the AFFIDAVIT or PORTION of the AFFIDAVIT**

Your Affiant, \_\_\_\_\_, requests that the following portion of the Search Warrant Affidavit / Statement of Probable Cause identified as the “**Confidential Attachment**” be ordered sealed by the Magistrate in order to implement the privilege under Evidence Code Sections 1040 to 1042 and to protect the identity of any confidential informant(s) and/or official information, pursuant to the Supreme Court decision in *People v. Janet Marie Hobbs* (1994) 7 Cal. 4<sup>th</sup> 948, and California Rule of Court Rule 2.55.0, subd. (d) and (e).

If any of the information within the requested sealed portion of the Affidavit / Statement of Probable Cause is made public, it will reveal or tend to reveal the identity of any confidential informant(s), imp-air further related investigations and endanger the life of the confidential informant(s).

I declare under penalty of perjury that the related foregoing is true and correct to the best of my knowledge.

\_\_\_\_\_, \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, at \_\_\_\_\_ A.M. / P.M.  
(Signature of Affiant)

**ORDER**

Based upon a review of the Search Warrant Affidavit this court finds that there exists an overriding interest that overcomes the right of public access to the record; the overriding interest supports sealing the record; a substantial probability exists that the overriding interest will be prejudiced if the record is not sealed; the proposed sealing is narrowly tailored; an no less restrictive means exist to achieve the overriding interest.

Therefore it is ordered that the following portion of the Search Warrant Affidavit / Statement of Probable Cause identified as the “**Confidential Attachment**” be sealed and kept in the custody of the Affiant’s law enforcement agency and not be made part of the public record until further order of this court or any competent court.

\_\_\_\_\_, \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, at \_\_\_\_\_ A.M. / P.M.  
(Signature of Magistrate)

Judge of the Superior Court of California, County of Orange, \_\_\_\_\_, Dept. \_\_\_\_\_.

\_\_\_\_\_  
(Printed Name of Magistrate)

**INVESTIGATIONS DIVISION  
SPECIAL INVESTIGATIONS BUREAU  
ORANGE COUNTY SHERIFF-CORONER DEPARTMENT**

**SECTION: 6-1**

**SUBJECT: KNOCK AND TALKS / CONSENT SEARCHES**

**I. INTRODUCTION**

**A. Purpose**

The purpose of this policy is to establish guidelines in the use of “Knock and Talks” and consent searches that will enable Special Investigations Bureau personnel to preserve any evidentiary items and maintain officer safety.

**B. Background**

During the course of investigations, Bureau personnel may find it necessary to conduct a “Knock and Talk” and/or a consent search when there is not enough probable cause for a search warrant or where time or workload limitations exist.

**C. Accountability**

It is always recommended that a search warrant be obtained, if at all possible. If there aren’t sufficient facts in support of probable cause for a search warrant, then Bureau personnel must adhere to this policy in order to limit liability to the Department and ensure officer safety to personnel conducting the investigation.

**D. Training**

Personnel must be aware of the disadvantages to a “Knock and Talk” or consent search investigation. They include, but are not limited to:

1. Refusal of entry into premises.
2. Voluntariness of the search.
3. Absent exigent circumstances, if the resident refuses consent, one cannot “freeze,” lock-down or enter the location, while a search warrant is sought.
4. “Exigent circumstances” are not created simply by the occupant refusing consent. This increases the likelihood that your investigation will become known.

5. The resident may be able to destroy evidence before giving consent.
6. Inability to restrict movement of people within the location.
7. Limited knowledge of the criminal nature of occupants.

## II. POLICY

### A. “Knock and Talks”

The “Knock and Talk” is an investigative approach for detecting evidence, identifying potential suspects and making arrests. The entry in all cases should be within legal parameters and must be consensual.

A “Knock and Talk” should be conducted when all other investigative methods, (i.e. search warrant, parole/probation search, 4th waiver search) have been utilized and/or deemed inappropriate.

The following guidelines should be followed when conducting “Knock and Talks.”

1. Prior to conducting the “Knock and Talk,” a comprehensive computer check shall be done in an attempt to identify occupants and/or criminal activity at the address.
2. A minimum of two officers shall be present when attempting to conduct a “Knock and Talk” at any location. A uniformed officer should be considered, if available, under certain circumstances.
3. All Special Investigations Bureau personnel conducting “Knock and Talk” investigations shall carry a minimum of the following equipment: handcuffs, a portable radio, an on-duty handgun, their Department badge and identification card. Additional equipment should be utilized when necessary.
4. Special Investigations Bureau personnel will write an investigative report in all cases in which arrests/detentions are made. All property and/or evidence will be seized according to departmental guidelines.

### B. Consent Searches for Residential or Commercial Structures

1. Prior to conducting a consent search, the following requirements shall be followed:



- a. The unit supervisor will be briefed on the circumstances and reasoning for the use of the consent search and will be present during the search.
  - b. A check of LACLEAR for any possible hits on the subject or location.
  - c. Notification to the local agency, if appropriate.
2. Once contact is made with the subject, the following shall be performed:
- a. Subject will sign a “Search Consent Form” prior to conducting a formal search.
    - (1) Voluntary (i.e., clear, specific, and unequivocal).
    - (2) Obtained from a person with authority to give the consent.
    - (3) Does not exceed the scope of the consent given.
    - (4) A person with authority to consent to the search should be present or otherwise in a position to communicate a withdrawal of consent should they so desire. Absent other legal justification, any related search should be discontinued at any point consent is withdrawn.
    - (5) While there is no requirement that an individual be told of their right to refuse consent, such a warning and the use of the Search Consent Form provides strong support for the validity of any consent.
  - b. Unit supervisor will ensure search teams are assigned for specific areas.
  - c. Obtain a case number to document the search, whether or not any items are seized or arrests made.
  - d. Leave a copy of the “Property Receipt” Form with the itemized property and money seized.

### **III. SEARCH PROTOCOL**

Members of this department will conduct searches with dignity and courtesy as outlined in Section 5-5, under Search Protocols, in this manual.

**INVESTIGATIONS DIVISION  
SPECIAL INVESTIGATIONS BUREAU  
ORANGE COUNTY SHERIFF-CORONER DEPARTMENT**

**SECTION: 6-2**

**SUBJECT: UNDERCOVER OPERATIONS**

**I. INTRODUCTION**

**A. Purpose**

The purpose of this section is to establish policy and procedure for undercover operations.

**B. Background**

During narcotics, vice and gang investigations, Bureau personnel may be required to work in an undercover capacity. Occasionally, Department personnel may be assigned to Narcotics/Vice as a temporary duty assignment. Officer safety is the paramount concern in these types of operations. Personnel working in an undercover capacity or case agents utilizing this technique should be aware of the factors that tend to influence their effectiveness and the safe outcome of the investigation in which undercover officers are used.

**C. Scope of this Policy**

This policy is designed to protect and ensure the safety of undercover personnel assigned to the Special Investigations Bureau. It is also designed to protect and ensure the safety of uninvolved citizens, informants and suspects.

**D. Accountability**

Each unit supervisor will be responsible for the safety of all undercover personnel operating under their supervision. Any time a supervisor believes personnel have extended beyond the parameters or their limits, the operation shall be terminated.

**E. Training**

The Special Investigations Bureau Lieutenant and unit supervisors will ensure all undercover personnel are familiar with these procedures and guidelines.

**F. Conclusion**

The intent of this policy is to provide guidelines for undercover personnel and unit supervisors to ensure the safety of everyone involved in undercover operations.

**II. POLICY****A. Introduction**

Undercover operations require planning, preparation and handling. Undercover personnel and case agents utilizing undercover officers need to be aware of the factors that tend to influence their effectiveness and the outcome of the investigations in which they participate.

**B. Undercover Objectives**

1. Obtain information and intelligence.
2. Obtain evidence for prosecution.
3. Determine if a crime is being planned or committed.
4. Identify witnesses and informants.
5. Prove association between conspirators.
6. Check reliability of informants.
7. Locate contraband.
8. Determine the most advantageous time to make arrests or execute search warrants.

**III. GENERAL UNDERCOVER POLICIES****A. Role playing**

1. Undercover officers will be provided with sufficient fictitious identification. This identification will only be used in an undercover capacity and will not be used for any other purpose and must be documented in a file kept by the North Narcotics Investigative Assistant.
2. The undercover officer will be familiar with the role he/she is portraying. The undercover officer should:
  - a. Have proper identification for his/her role.

- b. Have an understanding of the laws relating to entrapment.
- c. Keep the case agent, supervisor and surveillance team apprised of the situation as it progresses.
- d. Not place himself/herself in such a position to jeopardize one's safety.
- e. Avoid “fronting” money.
- f. NEVER USE CONTROLLED SUBSTANCES.
- g. Simulation of drugs.
  - (1) Under normal circumstances, undercover personnel shall not simulate the use of any drug.
  - (2) Only in cases of extreme predicament should an undercover officer simulate drug use. If this occurs, the undercover shall notify the unit supervisor immediately in the event the drug is accidentally ingested.

**B. Firearms**

- 1. Undercover personnel shall carry a firearm at all times when on duty.
- 2. Undercover personnel who wish to carry a firearm other than those normally authorized by the Department for on duty use, shall receive approval from the Division Commander.
- 3. It is the undercover personnel’s discretion whether or not to carry a firearm during an undercover operation in which they are participating in that capacity.

**C. Use of Alcohol – Consumption in line of Duty**

- 1. Consuming intoxicating beverages may only be done while exercising extreme caution and good judgment, and only when absolutely necessary for the furtherance of the case.
- 2. Intoxicants should not be consumed to the extent the program or officer may become endangered.
- 3. No alcohol should be consumed except when absolutely necessary in the course of an investigation.

4. Special Investigations Bureau personnel will exercise caution and avoid over indulgence which may give rise to liability chargeable against the Department, the Sheriff, the County and the officer.
5. Any officer who has consumed alcoholic beverages during an investigation will not be assigned to an arrest or entry team at the culmination of that operation, if said consumption is in close enough proximity to the conclusion of the investigation to call the sobriety of the officer into question.

**D. Court**

Undercover personnel shall wear appropriate attire to court, as determined by the Deputy District Attorney handling the case.

**E. Search Warrant / Arrest Involvement**

When executing search warrants or arrest warrants, it is important to decide the importance of maintaining an undercover officer's cover. In instances where the need to maintain the undercover officer's cover is no longer needed, the undercover may participate in the execution of search and/or arrest warrants in investigations in which they have participated.

When the need to maintain the cover of an undercover officer exists, the officer may be precluded from participation in warrant service. Where manpower is limited the use of the undercover should be on the outer perimeter or the undercover should wear a head covering to protect his/her identity. The undercover will not be the first person through the door.

**IV. Requesting the Use of an Undercover Deputy**

**A. When requesting the use of an undercover Deputy, the following procedures shall be adhered to:**

1. The case agent shall contact the undercover deputy's supervisor for the request and provide the following information:
  - a. Name of the undercover deputy requested.
  - b. Name of the investigator and his/her supervisor and unit making the request.
  - c. Time, date, and length of operation.

- d. Type of operation.
2. Final approval for utilization of the undercover will rest with the undercover deputy's supervisor. Consideration will be given concerning the duration of the operation and the undercover deputy's regular work schedule in order to ensure the deputy's safety.
3. Any overtime accrued by the undercover deputy will be paid by the Bureau unit making the request.

#### **B. Requests from Outside Agencies**

Requests from outside agencies for the use of an undercover deputy shall be referred to the undercover deputy's supervisor, who shall be responsible for approval of the request. Once approved, the following guidelines shall be followed:

1. The Bureau unit supervisor shall coordinate the operation with the requesting agency's supervisor.
2. The Bureau unit will supply a minimum of two personnel as surveillance and back-up of the undercover deputy during the operation.
3. The Bureau unit supervisor shall be in command of the undercover deputy. At anytime, if he/she feels that the agency is not conforming to the best interests of the Department or the undercover deputy, he/she shall terminate the undercover deputy's role in the operation.

### **V. OPERATIONS**

#### **A. Planning**

The main objective in any undercover operation is the safety to personnel, uninvolved citizens, informants and suspects. This should be the forethought in planning the operation.

At no time is the case agent to work in an undercover capacity.

##### **1. Background:**

A background investigation shall be conducted on any suspect or location prior to an undercover operation.

The undercover needs as much information as possible in order to prepare for any eventuality and operate safely. The suspect's past history, known

associates, security of the location (i.e. body guards, cameras) are essential for the undercover to know.

**2. Informants**

The undercover shall participate in the debriefing of an informant, who he/she may be asked to work with during an operation. The informant may be able to provide firsthand knowledge of information necessary for the undercover to operate safely.

**3. Briefing**

During the briefing for the operation, the undercover should be available for all personnel to see and reminded not to change any clothing or appearance after the briefing.

In the presence of the undercover, all personnel shall be briefed on the audio and visual arrest and distress signals.

**4. Mission**

The unit supervisor must make sure the undercover is thoroughly briefed and has an overall understanding of the objective and the parameters under which he/she will operate.

The unit supervisor is responsible for the safety of all operational personnel. If at any time the unit supervisor believes personnel have extended beyond the parameters established in the planning phase, the operation should be terminated. In addition if the undercover feels the operation is beyond his/her capabilities, is unsafe, etc., the undercover has the option to terminate his/her part in the operation.

**B. During Operation:**

**1. Surveillance:**

Surveillance shall be conducted of an undercover during an operation whenever possible.

In unusual circumstances when a visual surveillance of an undercover is impossible, an audio surveillance should be considered.

**2. Body Wires:**

An undercover may utilize a body wire if circumstances dictate.

It may be useful for the case agent and other members of the surveillance team to have the capability of listening to the audio to help ensure officer safety by providing several areas, some better than others, for reception. This allows the case agent to know if the undercover is following the established parameters.

**3. Arrests:**

The undercover shall not participate in the arrest operation unless approved by the unit supervisor. In most cases the undercover will leave the area prior to the arrest or maintain his/her cover and allow himself/herself to be arrested along with the suspect(s). The undercover should be aware that in the heat of the moment, he/she may actually be mistaken for a suspect and should comply with all orders given by the arrest team. It is the unit supervisor's responsibility to ensure that the undercover is safe and his/her cover is maintained.



**INVESTIGATIONS DIVISION  
SPECIAL INVESTIGATIONS BUREAU  
ORANGE COUNTY SHERIFF-CORONER DEPARTMENT**

**SECTION: 6-3**

**SUBJECT: NOTIFICATION TO OUTSIDE AGENCIES**

**I. INTRODUCTION**

**A. Purpose**

The purpose of this section is to establish policies and procedures for inter-agency notifications during tactical operations and notification of non-law enforcement agency after the completion of tactical operations.

**B. Background**

The importance of an established protocol for inter-agency notifications has become more important due to the proliferation of Task Forces, Teams involved in cross jurisdictional surveillance and the nature of undercover investigations.

The need for recognized notification procedures is extremely important in the field when the likelihood of uniformed personnel coming into contact or confrontations with non-uniformed personnel exists.

There are two issues: the notification of planned events in another agency's jurisdiction and suggested procedures to follow in situations involving a field contact or confrontation between undercover officers and uniformed personnel.

**C. Scope of Policy**

This policy applies to all Special Investigations Bureau personnel involved in tactical operations in another jurisdiction.

**D. Accountability**

Each unit supervisor will be responsible for ensuring that appropriate notifications are made.

**E. Training**

Knowledge of the procedures for notification will be covered in all new Bureau personnel training.

**F. Conclusion**

It is the intent of this policy to ensure officer safety and preclude inter-agency confrontations.

**II. POLICY****A. Notifications**

1. Prior to a planned event (Planned events include but are not limited to: search warrants, probation/parole searches, consent searches, controlled buys, buy/busts, reverse stings, money flashes, UC meets, arrest warrant service and surveillances), notification will be made to the Los Angeles County Criminal Information Clearinghouse (LACLEAR) with the address or area of activity. LACLEAR will advise of any conflicts or potential conflicts in the area that may affect the operation.
2. In addition, a timely notification is required to the agency having jurisdiction of the occurring event. Notification will normally be to the agency's Watch Commander. Such notification should include:
  - a. The time and place of the event and the names of the persons, if applicable. Minimally, a contact name and phone number should be given.
  - b. The nature of the activity, i.e., search warrant, surveillance, etc.
  - c. An assessment of the potential for problems.
  - d. What assistance, if any, is or may be requested of the agency.

**B. Outside Agency Responsibilities**

Once received, the agency is responsible for:

1. Maintaining the confidentiality of the information.
2. Any intra-departmental notifications which they deem appropriate or necessary.
3. Providing reasonable assistance, if requested.

**C. Conclusion of Event**

At the conclusion of the event, an exit notification shall be made to advise of the termination of the event. If possible the notification should be made to the same individual or their relief. Should the event result in a noteworthy incident (i.e., a large seizure or significant arrest(s), this information shall likewise be conveyed to the agency. Any press notifications should be handled by our Department or jointly.

**D. Field Contact/Confrontations**

Because plainclothes/undercover officers are not always readily identifiable as law enforcement members, contacts between them and uniformed personnel include the potential for confrontation. The primary responsibility for avoiding or defusing this risk lies with the non-uniformed officer(s).

Their actions when contacted by a uniformed officer are critically important. The following suggestions are intended to assist in avoiding or alleviating the tension possible in such contacts. The plainclothes officer should:

1. Carry his/her firearm well concealed, rather than partially or completely visible.
2. When stopped, make identification verbally and indicate where credentials and weapons are located.
3. Follow the instructions of the uniformed officer explicitly.
4. Avoid any sudden movement which could be interpreted as suspicious or threatening. Keep hands in plain view.
5. Comply with any requests of the uniformed officer without hesitation.
6. Be prepared to provide the phone number and name of a supervisor or other agency member who may be contacted for verification as requested by the uniformed officer.

**E. Notification to Non-Law Enforcement Agencies**

1. School Districts – Narcotics Violations
  - a. Section 11591 of the Health and Safety Code requires school authorities to be notified whenever a school employee (teacher or non-teacher) is arrested for drug-related offenses enumerated in H&S 11590 and CA Education Code 44011. Section 11591 also

states what authorities are to be notified according to the school district involved. **(See Attachment A)**

- b. Section 11591 states the notification will be made by telephone immediately to the superintendent of schools of the district employing the teacher.
- c. And shall immediately give written notice of the arrest to the Commission on Teacher Credentialing and to the superintendent of schools in the county where the person is employed, as outlined in Section 11591. The unit supervisor will make this notification. A log of these notifications will be maintained.
- d. Section 11591.5 states the arresting agency shall make immediate notification by telephone to the superintendent of the community college district employing the teacher or instructor
- e. And shall immediately give written notice of the arrest to the Office of the Chancellor of the California Community Colleges. The unit supervisor will make this notification. A log of these notifications will be maintained.

2. Schools Districts – Vice – Lewd and Lascivious Conduct

- a. Section 291 of the California Penal Code requires school authorities to be notified whenever any school employee (teacher or non-teacher) is arrested for any offense enumerated in section 290 of the California Penal Code and CA Education Code 44010. Section 291 also states what authorities are to be notified according to the school district involved. **(See Attachment B)**
- b. Section 291 states the notification will be made by telephone immediately.
- c. Written notification must then be made to the appropriate authority as outlined in Section 291. The unit supervisor will make this notification. A log of these notifications will be maintained.
- d. Section 291.1 states upon arrest of any person who is employed as a teacher in any private school of this state, shall immediately give both written and telephonic notification of the arrest to the private school authorities employing the teacher. The unit supervisor will make this notification. A log of these notifications will be maintained.
- e. Section 291.5 states upon the arrest of any teacher or instructor employed in any community college district shall immediately

notify by telephone the superintendent of the community college district employing the teacher or instructor

- d. and shall immediately give written notice of the arrest to the Office of the Chancellor of the California Community. The unit supervisor will make these notifications. A log of the notifications will be maintained.
3. Minors at risk
- a. Bureau personnel will make notification as required by law and department policy to the appropriate agencies regarding incidents involving minors who may be deemed at risk.
  - b. Special procedures exist in cases where minors are found at the scene of methamphetamine labs. These procedures will be carried out by members of the appropriate Bureau of Narcotic Enforcement methamphetamine lab task force.

# ATTACHMENT A

# ATTACHMENT B

State of California

HEALTH AND SAFETY CODE

**Section 11590**

11590. (a) Except as provided in subdivisions (c) and (d), any person who is convicted in the State of California of any offense defined in Section 11350, 11351, 11351.5, 11352, 11353, 11353.5, 11353.7, 11354, 11355, 11357, 11358, 11359, 11360, 11361, 11363, 11366, 11366.5, 11366.6, 11368, 11370.1, 11378, 11378.5, 11379, 11379.5, 11379.6, 11380, 11380.5, 11383, or 11550, or subdivision (a) of Section 11377, or any person who is discharged or paroled from a penal institution where he or she was confined because of the commission of any such offense, or any person who is convicted in any other state of any offense which, if committed or attempted in this state, would have been punishable as one or more of the above-mentioned offenses, shall within 30 days of his or her coming into any county or city, or city and county in which he or she resides or is temporarily domiciled for that length of time, register with the chief of police of the city in which he or she resides or the sheriff of the county if he or she resides in an unincorporated area.

For persons convicted of an offense defined in Section 11377, 11378, 11379, or 11380, this subdivision shall apply only to offenses involving controlled substances specified in paragraph (12) of subdivision (d) of Section 11054 and paragraph (2) of subdivision (d) of Section 11055, and to analogs of these substances, as defined in Section 11401. For persons convicted of an offense defined in Section 11379 or 11379.5, this subdivision shall not apply if the conviction was for transporting, offering to transport, or attempting to transport a controlled substance.

(b) Any person who is convicted in any federal court of any offense which, if committed or attempted in this state would have been punishable as one or more of the offenses enumerated in subdivision (a) shall, within 30 days of his or her coming into any county or city, or city and county, in which he or she resides or is temporarily domiciled for that length of time, register with the chief of police of the city in which he or she resides or the sheriff of the county if he or she resides in an unincorporated area.

(c) This section does not apply to a conviction of a misdemeanor under Section 11357, 11360, or 11377.

(d) The registration requirements imposed by this section for the conviction of offenses defined in Section 11353.7, 11366.5, 11366.6, 11370.1, 11377, 11378, 11378.5, 11379, 11379.5, 11379.6, 11380, 11380.5, or 11383, shall apply to any person who commits any of those offenses on and after January 1, 1990.

(Amended by Stats. 1995, Ch. 714, Sec. 1. Effective January 1, 1996. Operative upon appropriation of funds as prescribed by Sec. 2 of Ch. 714.)

**Section 11591**

11591. Every sheriff, chief of police, or the Commissioner of the California Highway Patrol, upon the arrest for any of the controlled substance offenses enumerated in Section 11590, or Section 11364, insofar as that section relates to paragraph (12) of subdivision (d) of Section 11054, of any school employee, shall, provided that he or she knows that the arrestee is a school employee, do one of the following:

(a) If the school employee is a teacher in any of the public schools of this state, the sheriff, chief of police, or Commissioner of the California Highway Patrol shall immediately notify by telephone the



superintendent of schools of the school district employing the teacher and shall immediately give written notice of the arrest to the Commission on Teacher Credentialing and to the superintendent of schools in the county where the person is employed. Upon receipt of the notice, the county superintendent of schools and the Commission on Teacher Credentialing shall immediately notify the governing board of the school district employing the person.

(b) If the school employee is a non-teacher in any of the public schools of this state, the sheriff, chief of police, or Commissioner of the California Highway Patrol shall immediately notify by telephone the superintendent of schools of the school district employing the non-teacher and shall immediately give written notice of the arrest to the governing board of the school district employing the person.

(c) If the school employee is a teacher in any private school of this state, the sheriff, chief of police, or Commissioner of the California Highway Patrol shall immediately notify by telephone the private school authority employing the teacher and shall immediately give written notice of the arrest to the private school authority employing the teacher.

(Amended by Stats. 2003, Ch. 536, Sec. 1. Effective January 1, 2004.)

#### **Section 11591.5**

11591.5. Every sheriff or chief of police, upon the arrest for any of the controlled substance offenses enumerated in Section 11590, or Section 11364, insofar as that section relates to paragraph (9) of subdivision (d) of Section 11054, of any teacher or instructor employed in any community college district shall immediately notify by telephone the superintendent of the community college district employing the teacher or instructor and shall immediately give written notice of the arrest to the Office of the Chancellor of the California Community Colleges. Upon receipt of such notice, the district superintendent shall immediately notify the governing board of the community college district employing the person.

(Added by Stats. 1983, Ch. 1032, Sec. 3.)

State of California

EDUCATION CODE

**Section 44011**

44011. "Controlled substance offense" as used in Sections 44346, 44425, 44436, 44836, and 45123 means any one or more of the following offenses:

(a) Any offense in Sections 11350 to 11355, inclusive, 11361, 11366, 11368, 11377to 11382, inclusive, and 11550 of the Health and Safety Code.

(b) Any offense committed or attempted in any other state or against the laws of the United States which, if committed or attempted in this state, would have been punished as one or more of the above-mentioned offenses.

(c) Any offense committed under former Sections 11500 to 11503, inclusive, 11557, 11715, and 11721 of the Health and Safety Code.

(d) Any attempt to commit any of the above-mentioned offenses.

(Amended by Stats. 1992, Ch. 272, Sec. 2. Effective January 1, 1993.)

## **State of California**

### **PENAL CODE**

#### **Section 290**

290. (a) Sections 290 to 290.024, inclusive, shall be known and may be cited as the Sex Offender Registration Act. All references to "the Act" in those sections are to the Sex Offender Registration Act.

(b) Every person described in subdivision (c), for the rest of his or her life while residing in California, or while attending school or working in California, as described in Sections 290.002 and 290.01, shall be required to register with the chief of police of the city in which he or she is residing, or the sheriff of the county if he or she is residing in an unincorporated area or city that has no police department, and, additionally, with the chief of police of a campus of the University of California, the California State University, or community college if he or she is residing upon the campus or in any of its facilities, within five working days of coming into, or changing his or her residence within, any city, county, or city and county, or campus in which he or she temporarily resides, and shall be required to register thereafter in accordance with the Act.

(c) The following persons shall be required to register:

Any person who, since July 1, 1944, has been or is hereafter convicted in any court in this state or in any federal or military court of a violation of Section 187 committed in the perpetration, or an attempt to perpetrate, rape or any act punishable under Section 286, 288, 288a, or 289, Section 207 or 209 committed with intent to violate Section 261, 286, 288, 288a, or 289, Section 220, except assault to commit mayhem, subdivision (b) and (c) of Section 236.1, Section 243.4, paragraph (1), (2), (3), (4), or (6) of subdivision (a) of Section 261, paragraph (1) of subdivision (a) of Section 262 involving the use of force or violence for which the person is sentenced to the state prison, Section 264.1, 266, or 266c, subdivision (b) of Section 266h, subdivision (b) of Section 266i, Section 266j, 267, 269, 285, 286, 288, 288a, 288.3, 288.4, 288.5, 288.7, 289, or 311.1, subdivision (b), (c), or (d) of Section 311.2, Section 311.3, 311.4, 311.10, 311.11, or 647.6, former Section 647a, subdivision (c) of Section 653f, subdivision 1 or 2 of Section 314, any offense involving lewd or lascivious conduct under Section 272, or any felony violation of Section 288.2; any statutory predecessor that includes all elements of one of the above-mentioned offenses; or any person who since that date has been or is hereafter convicted of the attempt or conspiracy to commit any of the above-mentioned offenses.

(Amended November 6, 2012, by initiative Proposition 35, Sec. 9.)

#### **Section 291**

291. Every sheriff, chief of police, or the Commissioner of the California Highway Patrol, upon the arrest for any of the offenses enumerated in Section 290, subdivision (a) of Section 261, or Section 44010 of the Education Code, of any school employee, shall, provided that he or she knows that the arrestee is a school employee, do either of the following:

(a) If the school employee is a teacher in any of the public schools of this state, the sheriff, chief of police, or Commissioner of the California Highway Patrol shall immediately notify by telephone the superintendent of schools of the school district employing the teacher and shall immediately give written notice of the arrest to the Commission on Teacher Credentialing and to the superintendent of schools in

the county where the person is employed. Upon receipt of the notice, the county superintendent of schools and the Commission on Teacher Credentialing shall immediately notify the governing board of the school district employing the person.

(b) If the school employee is a non-teacher in any of the public schools of this state, the sheriff, chief of police, or Commissioner of the California Highway Patrol shall immediately notify by telephone the superintendent of schools of the school district employing the non-teacher and shall immediately give written notice of the arrest to the governing board of the school district employing the person.

(Amended by Stats. 2003, Ch. 536, Sec. 2. Effective January 1, 2004.)

### **Section 291.1**

291.1. Every sheriff or chief of police, or Commissioner of the California Highway Patrol, upon the arrest for any of the offenses enumerated in Section 290 or Section 44010 of the Education Code, of any person who is employed as a teacher in any private school of this state, shall, provided that he or she knows that the arrestee is a school employee, immediately give written notice of the arrest to the private school authorities employing the teacher. The sheriff, chief of police, or Commissioner of the California Highway Patrol, provided that he or she knows that the arrestee is a school employee, shall immediately notify by telephone the private school authorities employing the teacher of the arrest.

(Amended by Stats. 2003, Ch. 536, Sec. 3. Effective January 1, 2004.)

### **Section 291.5**

291.5. Every sheriff or chief of police, upon the arrest for any of the offenses enumerated in Section 290 or in subdivision (1) of Section 261 of any teacher or instructor employed in any community college district shall immediately notify by telephone the superintendent of the community college district employing the teacher or instructor and shall immediately give written notice of the arrest to the Office of the Chancellor of the California Community Colleges. Upon receipt of such notice, the district superintendent shall immediately notify the governing board of the community college district employing the person.

(Added by Stats. 1983, Ch. 1032, Sec. 4.)

**State of California**

**EDUCATION CODE**

**Section 44010**

44010. "Sex offense," as used in Sections 44020, 44237, 44346, 44425, 44436, 44836, and 45123, means any one or more of the offenses listed below:

(a) Any offense defined in Section 220, 261, 261.5, 262, 264.1, 266, 266j, 267,285, 286, 288, 288a, 288.5, 289, 311.1, 311.2, 311.3, 311.4, 311.10, 311.11, 313.1,647b, 647.6, or former Section 647a, subdivision (a), (b), (c), or (d) of Section 243.4,or subdivision (a) or (d) of Section 647 of the Penal Code.

(b) Any offense defined in former subdivision (5) of former Section 647 of the Penal Code repealed by Chapter 560 of the Statutes of 1961, or any offense defined in former subdivision (2) of former Section 311 of the Penal Code repealed by Chapter2147 of the Statutes of 1961, if the offense defined in those sections was committed prior to September 15, 1961, to the same extent that an offense committed prior tothat date was a sex offense for the purposes of this section prior to September 15,1961.

(c) Any offense defined in Section 314 of the Penal Code committed on or after September 15, 1961.

(d) Any offense defined in former subdivision (1) of former Section 311 of the Penal Code repealed by Chapter 2147 of the Statutes of 1961 committed on or after September 7, 1955, and prior to September 15, 1961.

(e) Any offense involving lewd and lascivious conduct under Section 272 of the Penal Code committed on or after September 15, 1961.

(f) Any offense involving lewd and lascivious conduct under former Section 702of the Welfare and Institutions Code repealed by Chapter 1616 of the Statutes of 1961, if that offense was committed prior to September 15, 1961, to the same extent that an offense committed prior to that date was a sex offense for the purposes of this section prior to September 15, 1961.

(g) Any offense defined in Section 286 or 288a of the Penal Code prior to the effective date of the amendment of either section enacted at the 1975–76 Regular Session of the Legislature committed prior to the effective date of the amendment.

(h) Any attempt to commit any of the offenses specified in this section.

(i) Any offense committed or attempted in any other state or against the laws of the United States which, if committed or attempted in this state, would have been punishable as one or more of the offenses specified in this section.

(j) Any conviction for an offense resulting in the requirement to register as a sex offender pursuant to Section 290 of the Penal Code.

(k) Commitment as a mentally disordered sex offender under former Article 1(commencing with Section 6300) of Chapter 2 of Part 2 of the Welfare and Institutions Code, as repealed by Chapter 928 of the Statutes of 1981.

(Amended by Stats. 2004, Ch. 124, Sec. 1. Effective January 1, 2005.)

**INVESTIGATIONS DIVISION  
SPECIAL INVESTIGATIONS BUREAU  
ORANGE COUNTY SHERIFF-CORONER DEPARTMENT**

**SECTION: 6-4**

**SUBJECT: LOS ANGELES REGIONAL CRIMINAL INFORMATION  
CLEARINGHOUSE (LACRCIC)**

**I. INTRODUCTION**

**A. Purpose**

The development of the Los Angeles County Regional Criminal Information Clearinghouse (LACRCIC), or better known as, "LACLEAR," was to promote officer safety regarding narcotics investigations. Due to the high volume of agencies conducting these investigations it is critical that this policy exists.

**B. Background**

The LACRCIC was established by the Los Angeles County Police Chief's Association. The LACRCIC currently serves all agencies - federal, state and local, in the counties of Los Angeles, Orange, Riverside and San Bernardino, which comprise the Los Angeles High Intensity Drug Trafficking Area (HIDTA), along with an additional 20 California counties and 1 Nevada County. The department heads of all these agencies, including our Sheriff, have signed a participation agreement regarding utilization of the LACRCIC. The LACRCIC provides case support, has a state-of-the-art Electronic Surveillance Center, and operates a Watch Center for submission of information, querying of intelligence databases and posting of planned events - 24 hours per day/7 days per week.

**C. Scope of Policy**

This policy applies to all Special Investigations Bureau personnel involved in investigations with a nexus to narcotics, vice or gang activity.

**D. Accountability**

Each unit supervisor shall receive a copy of the LACRCIC Participation Agreement and sign an acknowledgment indicating receipt of same. Each Unit supervisor shall ensure that subordinate personnel comply with the participation agreement.

**E. Training**

The Special Investigations Bureau Lieutenant will ensure that all personnel are familiar with this policy.

**F. Conclusion**

It is the intent of this policy to ensure compliance with the LACRCIC Participation Agreement.

**II. POLICY**

Bureau personnel shall submit information to the Watch Center on all cases.

Additionally, all personnel shall adhere to the LACRCIC Participation Agreement.

**INVESTIGATIONS DIVISION  
SPECIAL INVESTIGATIONS BUREAU  
ORANGE COUNTY SHERIFF-CORONER DEPARTMENT**

**SECTION: 6-5**

**SUBJECT: LETTERS OF CONSIDERATION**

**I. CONCEPTS AND ISSUES**

**A. Purpose**

The purpose of this section is to establish procedures and guidelines to follow when submitting a "Letter of Consideration."

**B. Background**

Special Investigation Bureau personnel rely heavily on the use of criminal informants (defendant) to assist in their investigations. Whenever Bureau personnel deem that the work output from a criminal informant is worthwhile, he/she may prepare a letter with the approval from the Division Commander, asking the court that the defendant's cooperation be taken into account for special penalty consideration.

**C. Scope of Policy**

This policy is to assist Bureau personnel with guidelines in the preparation of "Letters of Consideration."

**D. Accountability**

All Bureau personnel will be held accountable to adhere to and follow the guidelines set forth in this policy.

**E. Training**

The unit supervisor will be responsible to ensure that all personnel under his/her supervision shall be trained and aware of these guidelines.

**F. Conclusion**

The intent of this policy is to outline the necessary steps to follow when preparing and submitting "Letters of Consideration."



## II. POLICY

When Bureau personnel believe that the defendant's actions warrant special penalty considerations, a "Letter of Consideration" will be drafted.

- Bureau personnel will submit a "Letter of Consideration" to the unit supervisor for initial approval, and then passed to the Division Commander for signature. Bureau personnel should have supporting documentation (including defendant's criminal history, RAPS, work history, etc. and all other paperwork pertinent to the case) should any questions arise.

**NOTE:** Without approval from the OCCII Coordinator a defendant with a history of violent crime, sexual assaults, child molestation or any other offense that would bring embarrassment to the Department will not be approved.

- The Division Commander will review the completed letter and sign the document. If there are any questions the case agent will be contacted and may be asked for documentation to support the letter.
- Once approved, the letter will be forwarded to the appropriate handling Deputy District Attorney for consideration. A copy of the letter will be placed into the informant's file.

**INVESTIGATIONS DIVISION  
SPECIAL INVESTIGATIONS BUREAU  
ORANGE COUNTY SHERIFF-CORONER DEPARTMENT**

**SECTION: 6-6**

**SUBJECT: CRIMINAL INTELLIGENCE FILE GUIDELINES**

**I. Concepts and Issues**

**A. Purpose**

The purpose of this section is to establish policy and guidelines when a Criminal Intelligence File system is established in any Special Investigations Bureau Unit.

**B. Background**

Units within the Special Investigations Bureau may develop and collect information during their investigations which assist in the investigation and possibly future investigations of specific criminal activities. This information or intelligence consists of data on the activities and associations of individuals, groups, businesses, or organizations known or believed to be involved in criminal acts or in planning, organizing or financing of criminal acts.

**C. Scope**

This policy is intended for all Special Investigations Bureau personnel implementing, inputting and maintaining a Criminal Intelligence File.

**D. Accountability**

Unit supervisors are responsible for assuring that the Criminal Intelligence File is properly secured and maintained.

**II. Policy**

**A.** Certain steps must be followed in order to ensure that all information conforms to applicable laws and legal standards in the collection, storage and maintenance of intelligence files as outlined in 28 Code of Federal Regulations, Part 23 (28 CFR).  
**See Attachment A.**

**B.** All Special Investigations Bureau Criminal Intelligence Files will adhere to the procedures and guidelines set forth below.

### **III. Criminal Intelligence Information Defined**

For the purposes of the Orange County Sheriff's Department Special Investigations Bureau, the Criminal Intelligence File Database (CIFD) shall consist of stored information on the activities and associations of:

#### **A. Individuals who:**

1. are reasonably suspected of being or of having been involved in the actual or attempted planning, organizing, financing, or commission of criminal acts; or

#### **B. Organizations, businesses and groups that:**

1. are reasonably suspected of being or having been involved in the actual or attempted planning, organizing, financing, or commission of criminal acts; or
2. are reasonably suspected of being or of having been operated by, controlled, financed, or infiltrated by known or suspected criminals.

### **IV. File Content**

Only information with a link to criminals and criminal acts (criminal predicate) which meets the Special Investigations Bureau criteria for file input will be stored in the Criminal Intelligence File Database.

Specifically excluded material includes information on political, religious, or social views, associations, or activities of any individual or any group, association, corporation, business, partnership, or other organization unless such information directly relates to criminal conduct involving the individual, group, corporation or association.

The intelligence database will also not contain any information which has been obtained in violation of any applicable Federal, State, local law or ordinance.

### **V. File Criteria**

All information retained in the Criminal Intelligence File Database (CIFD) shall meet file criteria described in this section. Generally, information shall be retained in accordance with the generally accepted criminal file standards found in 28 Code of Federal Regulations, Part 23.

**A. Permanent Status**

1. Information that relates to an individual, organization, business or group which is reasonably suspected of being or having been involved in the actual or attempted planning, organizing, financing, or committing of one or more of the below criminal acts will be included in the CIFD.
  - a. Unlawful gambling
  - b. Loan Sharking
  - c. Prostitution
  - d. Pornography
  - e. Narcotics trafficking/manufacturing
  - f. Gang member/associate

\*\*\*NOTE\*\*\* Blue denotes requirements for Vice Unit

Green denotes requirements for Narcotics Unit

Red denotes requirements for Gang Unit

2. In addition to falling within the confines of one or more of the above criminal activities, the subject/entity to be given **Permanent Status** must be identifiable, distinguished by a name and unique identifying characteristics (e.g., date of birth, criminal identification number, social security number, alien registration number, driver's license number, or address). Identification at the time of file input is necessary to distinguish the subject/entity from existing file entries and those that may be entered at a later time.

\*\*\*NOTE\*\*\* The exception to this rule involves modus operandi (MO) files. MO files describe a unique method of operation for a specific type of criminal scenario and may not be immediately linked to an identifiable suspect. MO files may be retained indefinitely while additional identifiers are sought. It should also be noted that due to the common use of multiple and false identifiers by those engaged in criminal and terrorist activities, the identifiers held for the individual may or may not be accurate. This may include monikers for gang members and gang graffiti.

**B. Temporary Status**

Information that does not meet the criteria for permanent storage but may be pertinent to an investigation involving one of the categories previously listed should be given “temporary” status. Temporary information shall not be retained for longer than one year unless a compelling reason arises to move the information to permanent status. (An example of a compelling reason is if several pieces of information indicate that a crime has been committed, but more than a year is needed to identify a suspect). During this period, efforts should be made to identify the subject/entity or validate the information so that its final status may be determined. If the information is still classified as temporary at the end of the one year period, the information should be purged. An individual, organization, business or group may be given temporary status in the following cases:

1. Subject/entity is unidentifiable – subject/entity (although suspected of being engaged in criminal activities) has no known physical descriptors, identification numbers, or distinguishing characteristics available.
2. Involvement is questionable – involvement in criminal activities is suspected by subject/entity which has either:
  - a. Possible criminal associations – individual, organization, business, or group (not currently reported to be criminally active) associates with known criminals and appears to be jointly involved in illegal activities.
  - b. Historic associations – individual, organization, business, or group (not currently reported to be criminally active) that has a history of association with persons later known to be involved in criminal activity and the circumstances currently being reported indicate they may become actively involved in criminal activity.

**C. Working Status**

1. All newly acquired information is considered to be in the working phase, as long as, it has not been indexed. This initial period of up to ninety (90) days allows time for inspection of the new data regarding its acceptability for function, use and indexing. Examples of this are citizen complaints and “We Tips” that are routed to the unit.
2. Anything rejected is either destroyed or rerouted to another unit whose mission includes the raw data. Acceptable data is classified as either temporary or permanent and made part of the unit’s file.

**D. Case Files**

Information contained in criminal case files is **not** considered intelligence and is not subject to 28CFR, Part 23.

**VI. Information Evaluation**

Information to be retained in the Criminal Intelligence File Database will be evaluated and designated for reliability and content validity prior to its filing. Data received in an intelligence unit may consist of unverified allegations or information. Evaluating the source of the information and its content indicates to future users the information's worth and usefulness. Circulating information which may not have been evaluated, where the source reliability is poor or the content validity is doubtful, is detrimental the agency's operations and contrary to individuals' rights to privacy.

**A. Source Reliability Standards:**

1. Reliable - the reliability of the source is unquestioned or has been well-tested in the past. This may include sworn testimony, data that has been corroborated by at least two independent sources, and data received from another law enforcement agency which has been verified by them.
2. Usually Reliable - the reliability of the source can usually be relied upon as factual. The majority of information provided in the past has proven to be reliable.
3. Unreliable - the reliability of the source has been sporadic in the past.
4. Unknown - the reliability of the source cannot be judged. Its authenticity or trustworthiness has not yet been determined by either experience or investigation.

**B. Content Validity Standards:**

1. Confirmed - the information has been corroborated by an investigator/deputy or another independent and reliable source.
2. Probable - the information is consistent with past accounts.
3. Doubtful - the information is inconsistent with past accounts.
4. Cannot be Judged - the information cannot be judged. Its authenticity has not yet been determined by either experience or investigation.

## **VII. Information Classification**

Information retained in the Criminal Intelligence Database is classified in order to protect sources, investigations and the individual's right to privacy. Classification also indicates the internal approval which is required prior to the release of the information to persons outside the agency.

The classification of information and intelligence is subject to continual change. The passage of time, the conclusion of investigations, and other factors may affect the security classification assigned to particular documents. Documents within the intelligence files should be reviewed on an ongoing basis to ascertain whether a higher or lesser degree of document security is required to ensure that information is released only when and if appropriate.

### **A. Sensitive Classification Level:**

1. Information pertaining to significant criminal activity currently under investigation.
2. Informant identification information.
3. Intelligence reports which require strict dissemination and release criteria.

### **B. Confidential:**

1. Criminal intelligence reports not designated as sensitive.
2. Information obtained through intelligence section channels that is not classified as sensitive and is for law enforcement use only.

### **C. Restricted:**

1. Reports that, at an earlier date, were classified sensitive or confidential and the need for high-level security no longer exists.
2. Non-confidential information prepared for/by law enforcement agencies.

### **D. Unclassified:**

1. Civic-related information to which, in its original form, the general public has access (i.e., public records).
2. Media information (i.e., public reports, newspapers and magazines).

**VIII. Information Source Documentation**

In all cases, source identification should be available and should be noted along with the data itself. The true identity of the source should be used unless there is a need to protect the source. In those cases when identifying the source by name is not practical for security reasons, a code number may be used. A confidential listing of coded sources of information should be retained by the intelligence unit supervisor.

**IX. Information Quality Control**

Information to be stored in the Criminal Intelligence File Database shall undergo a thorough review for compliance with file guidelines and agency policy prior to being filed. The unit supervisor is responsible for seeing that all information entered into the CIFD conforms to the agency's file criteria and has been properly evaluated and classified.

**X. Information and Intelligence Dissemination****A. Open Public Records Exemption**

All documents, materials and information pertaining to criminal intelligence created, compiled, obtained or maintained by the Special Investigations Bureau unit shall be deemed to be confidential, non-public and not subject to the Public Records Act or other public information regulations or laws.

**B. Criteria**

Information from the CIFD can only be released to an individual who has demonstrated both a need-to-know and a right-to-know.

1. "Right to know" is defined as the requestor having an official capacity and statutory authority to receive the information being sought.
2. "Need to know" is defined as the information requested is pertinent and necessary to the requestor in initiating, furthering, or completing an investigation.

**C. Third Party Data Restrictions**

No "original document" which has been obtained from an outside agency may be released to a third agency without the permission of the originating agency.



**D. Information Dissemination by Classification of Data**

Information in the following classifications may be disseminated with the approval of the following personnel:

<b><u>Security Level</u></b>	<b><u>Dissemination criteria</u></b>	<b><u>Release Authority</u></b>
Sensitive	Restricted to law enforcement personnel with a specific need-to know and right-to know	SIB Lieutenant
Confidential	Same as sensitive	Unit Supervisor
Restricted	Same as sensitive	Unit Supervisor
Unclassified	Not restricted	Unit Personnel

**E. Dissemination to Avoid Imminent Danger**

Nothing in these dissemination restrictions shall limit the dissemination of an intelligence assessment to a government official or to any other individual, when necessary, to avoid imminent danger to life or property.

**F. Dissemination Control**

To eliminate unauthorized use and abuse of the system, the unit shall use a dissemination control form that is maintained with each stored document. This audit control shall record the date of the request, the name of the agency and individual requesting the information, the need-to-know, the information provided, and the name of the employee handling the request.

**XI. File Review and Purge**

Information in the CIFD will be reviewed periodically for reclassification or purge in order to ensure that the file is current, accurate, and relevant to the needs and mission of the unit; safeguard the individual's right to privacy as guaranteed under federal and state laws; and ensure that the security classification level remains appropriate.

**A. Purge Criteria**

Information will be reviewed and/or purged using the following considerations:

1. Utility - has it been used in the past two years?
2. Timeliness and Appropriateness - is the investigation still ongoing?
3. Accuracy and Completeness - Is the information still valid?

**B. Review and Purge Time Schedule**

1. Permanent Data - permanent data shall be reviewed and/or purged every five years.
2. Temporary Data - temporary data shall be reviewed and/or purged every year.
3. Working Data – working data shall be reviewed within 90 days and elevated to Temporary or Permanent status, or purged, unless information still needs to be acted on.

**C. Manner of Destruction**

1. Material purged from the CIFD shall be destroyed. Disposal is used for all records or papers that identify a person by name.

**XII. File Security**

**A. Physical Security**

The CIFD shall be located in a secured area with file access restricted to authorized personnel.

**B. Programmatic Security**

The CIFD must store information in the system in such a manner that it cannot be modified, destroyed, accessed, or purged without authorization. Sanctions will be adopted for unauthorized access, utilization, or disclosure of information contained in the system.

# Attachment A

## 28 CFR Part 23

### CRIMINAL INTELLIGENCE SYSTEMS OPERATING POLICIES

Executive Order 12291

1998 Policy Clarification

1993 Revision and Commentary

# 28 CFR Part 23

## Executive Order 12291

These regulations are not a "major rule" as defined by section 1(b) of Executive Order No. 12291, 3 CFR part 127 (1981), because they do not result in: (a) An effect on the economy of \$100 million or more, (b) a major increase in any costs or prices, or (c) adverse effects on competition, employment, investment, productivity, or innovation among American enterprises.

## Regulatory Flexibility Act

These regulations are not a rule within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601-612. These regulations, if promulgated, will not have a "significant" economic impact on a substantial number of small "entities," as defined by the Regulatory Flexibility Act.

## Paperwork Reduction Act

There are no collection of information requirements contained in the proposed regulation.

## List of Subjects in 28 CFR Part 23

Administrative practice and procedure, Grant programs, Intelligence, Law Enforcement.

For the reasons set out in the preamble, title 28, part 23 of the Code of Federal Regulations is revised to read as follows:

### PART 23-CRIMINAL INTELLIGENCE SYSTEMS OPERATING POLICIES Sec.

#### 23.1 Purpose.

#### 23.2 Background.

#### 23.3 Applicability.

#### 23.20 Operating principles.

#### 23.30 Funding guidelines.

#### 23.40 Monitoring and auditing of grants for the funding of intelligence systems.

Authority: 42 U.S.C. 3782(a); 42 U.S.C. 3789g(c).

#### § 23.1 Purpose.

The purpose of this regulation is to assure that all criminal intelligence systems operating through support under the Omnibus Crime Control and Safe Streets Act of 1968, 42 U.S.C. 3711, et seq., as amended (Pub. L. 90-351, as amended by Pub. L. 91-644, Pub. L. 93-83, Pub. L. 93-415, Pub. L. 94-430, Pub. L. 94-503, Pub. L. 95-115, Pub. L. 96-157, Pub. L. 98-473, Pub. L. 99-570, Pub. L. 100-690, and Pub. L. 101-647), are utilized in conformance with the privacy and constitutional rights of individuals.

#### § 23.2 Background.

It is recognized that certain criminal activities including but not limited to loan sharking, drug trafficking, trafficking in stolen property, gambling, extortion, smuggling, bribery, and corruption of public officials often involve some degree of regular coordination and permanent organization involving a large number of participants over a broad geographical area. The exposure of such ongoing networks of criminal activity can be aided by the pooling of information about such activities. However, because the collection and exchange of intelligence data necessary to support control of serious criminal activity may represent potential threats to the privacy of individuals to whom such data relates, policy guidelines for Federally funded projects are required.

#### § 23.3 Applicability.

(a) These policy standards are applicable to all criminal intelligence systems operating through support under the Omnibus Crime Control and Safe Streets Act of 1968, 42 U.S.C. 3711, et seq., as amended (Pub. L. 90-351, as amended by Pub. L. 91-644, Pub. L. 93-83, Pub. L. 93-415, Pub. L. 94-430, Pub. L. 94-503, Pub. L. 95-115, Pub. L. 96-157, Pub. L. 98-473, Pub. L. 99-570, Pub. L. 100-690, and Pub. L. 101-647).

(b) As used in these policies: (1) Criminal Intelligence System or Intelligence System means the arrangements, equipment, facilities, and procedures used for the receipt, storage, interagency exchange or dissemination, and analysis of criminal intelligence information; (2) Interjurisdictional Intelligence System

means an intelligence system which involves two or more participating agencies representing different governmental units or jurisdictions; (3) Criminal Intelligence Information means data which has been evaluated to determine that it: (i) is relevant to the identification of and the criminal activity engaged in by an individual who or organization which is reasonably suspected of involvement in criminal activity, and (ii) meets criminal intelligence system submission criteria; (4) Participating Agency means an agency of local, county, State, Federal, or other governmental unit which exercises law enforcement or criminal investigation authority and which is authorized to submit and receive criminal intelligence information through an interjurisdictional intelligence system. A participating agency may be a member or a nonmember of an interjurisdictional intelligence system; (5) Intelligence Project or Project means the organizational unit which operates an intelligence system on behalf of and for the benefit of a single agency or the organization which operates an interjurisdictional intelligence system on behalf of a group of participating agencies; and (6) Validation of Information means the procedures governing the periodic review of criminal intelligence information to assure its continuing compliance with system submission criteria established by regulation or program policy.

§ 23.20 Operating principles.

(a) A project shall collect and maintain criminal intelligence information concerning an individual only if there is reasonable suspicion that the individual is involved in criminal conduct or activity and the information is relevant to that criminal conduct or activity.

(b) A project shall not collect or maintain criminal intelligence information about the political, religious or social views, associations, or activities of any individual or any group, association, corporation, business, partnership, or other organization unless such information directly relates to criminal conduct or activity and there is reasonable suspicion that the subject of the information is or may be involved in criminal conduct or activity.

(c) Reasonable Suspicion or Criminal Predicate is established when information exists which establishes sufficient facts to give a trained law enforcement or criminal investigative agency officer, investigator, or employee a basis to believe that there is a reasonable possibility that an individual or organization is involved in a definable criminal activity or enterprise. In an interjurisdictional intelligence system, the project is responsible for establishing the existence of reasonable suspicion of criminal activity either through examination of supporting information submitted by a participating agency or by delegation of this responsibility to a properly trained participating agency which is subject to routine inspection and audit procedures established by the project.

(d) A project shall not include in any criminal intelligence system information which has been obtained in violation of any applicable Federal, State, or local law or ordinance. In an interjurisdictional intelligence system, the project is responsible for establishing that no information is entered in violation of Federal, State, or local laws, either through examination of supporting information submitted by a participating agency or by delegation of this responsibility to a properly trained participating agency which is subject to routine inspection and audit procedures established by the project.

(e) A project or authorized recipient shall disseminate criminal intelligence information only where there is a need to know and a right to know the information in the performance of a law enforcement activity.

(f) (1) Except as noted in paragraph (f)(2) of this section, a project shall disseminate criminal intelligence information only to law enforcement authorities who shall agree to follow procedures regarding information receipt, maintenance, security, and dissemination which are consistent with these principles.

(2) Paragraph (f)(1) of this section shall not limit the dissemination of an assessment of criminal intelligence information to a government official or to any other individual, when necessary, to avoid imminent danger to life or property.

(g) A project maintaining criminal intelligence information shall ensure that administrative, technical, and physical safeguards (including audit trails) are adopted to insure against unauthorized access and against intentional or unintentional damage. A record indicating who has been given information, the reason for release of the information, and the date of each dissemination outside the project shall be kept. Information shall be labeled to indicate levels of sensitivity, levels of confidence, and the identity of submitting agencies and control officials. Each project must establish written definitions for the need to know and right to know standards for dissemination to other agencies as provided in paragraph (e) of this section. The project is responsible for establishing the existence of an inquirer's need to know and right to know the information being requested either through inquiry or by delegation of this responsibility to a properly trained

participating agency which is subject to routine inspection and audit procedures established by the project. Each intelligence project shall assure that the following security requirements are implemented:

- (1) Where appropriate, projects must adopt effective and technologically advanced computer software and hardware designs to prevent unauthorized access to the information contained in the system;
  - (2) The project must restrict access to its facilities, operating environment and documentation to organizations and personnel authorized by the project;
  - (3) The project must store information in the system in a manner such that it cannot be modified, destroyed, accessed, or purged without authorization;
  - (4) The project must institute procedures to protect criminal intelligence information from unauthorized access, theft, sabotage, fire, flood, or other natural or manmade disaster;
  - (5) The project must promulgate rules and regulations based on good cause for implementing its authority to screen, reject for employment, transfer, or remove personnel authorized to have direct access to the system; and
  - (6) A project may authorize and utilize remote (off-premises) system data bases to the extent that they comply with these security requirements.
- (h) All projects shall adopt procedures to assure that all information which is retained by a project has relevancy and importance. Such procedures shall provide for the periodic review of information and the destruction of any information which is misleading, obsolete or otherwise unreliable and shall require that any recipient agencies be advised of such changes which involve errors or corrections. All information retained as a result of this review must reflect the name of the reviewer, date of review and explanation of decision to retain. Information retained in the system must be reviewed and validated for continuing compliance with system submission criteria before the expiration of its retention period, which in no event shall be longer than five (5) years.
- (i) If funds awarded under the Act are used to support the operation of an intelligence system, then:
- (1) No project shall make direct remote terminal access to intelligence information available to system participants, except as specifically approved by the Office of Justice Programs (OJP) based on a determination that the system has adequate policies and procedures in place to insure that it is accessible only to authorized systems users; and
  - (2) A project shall undertake no major modifications to system design without prior grantor agency approval.
- (j) A project shall notify the grantor agency prior to initiation of formal information exchange procedures with any Federal, State, regional, or other information systems not indicated in the grant documents as initially approved at time of award.
- (k) A project shall make assurances that there will be no purchase or use in the course of the project of any electronic, mechanical, or other device for surveillance purposes that is in violation of the provisions of the Electronic Communications Privacy Act of 1986, Public Law 99-508, 18 U.S.C. 2510-2520, 2701-2709 and 3121-3125, or any applicable State statute related to wiretapping and surveillance.
- (l) A project shall make assurances that there will be no harassment or interference with any lawful political activities as part of the intelligence operation.
- (m) A project shall adopt sanctions for unauthorized access, utilization, or disclosure of information contained in the system.
- (n) A participating agency of an interjurisdictional intelligence system must maintain in its agency files information which documents each submission to the system and supports compliance with project entry criteria. Participating agency files supporting system submissions must be made available for reasonable audit and inspection by project representatives. Project representatives will conduct participating agency inspection and audit in such a manner so as to protect the confidentiality and sensitivity of participating agency intelligence records.

(o) The Attorney General or designee may waive, in whole or in part, the applicability of a particular requirement or requirements contained in this part with respect to a criminal intelligence system, or for a class of submitters or users of such system, upon a clear and convincing showing that such waiver would enhance the collection, maintenance or dissemination of information in the criminal intelligence system, while ensuring that such system would not be utilized in violation of the privacy and constitutional rights of individuals or any applicable state or federal law.

§ 23.30 Funding guidelines.

The following funding guidelines shall apply to all Crime Control Act funded discretionary assistance awards and Bureau of Justice Assistance (BJA) formula grant program subgrants, a purpose of which is to support the operation of an intelligence system. Intelligence systems shall only be funded where a grantee/subgrantee agrees to adhere to the principles set forth above and the project meets the following criteria:

(a) The proposed collection and exchange of criminal intelligence information has been coordinated with and will support ongoing or proposed investigatory or prosecutorial activities relating to specific areas of criminal activity.

(b) The areas of criminal activity for which intelligence information is to be utilized represent a significant and recognized threat to the population and:

(1) Are either undertaken for the purpose of seeking illegal power or profits or pose a threat to the life and property of citizens; and

(2) Involve a significant degree of permanent criminal organization; or

(3) Are not limited to one jurisdiction.

(c) The head of a government agency or an individual with general policy making authority who has been expressly delegated such control and supervision by the head of the agency will retain control and supervision of information collection and dissemination for the criminal intelligence system. This official shall certify in writing that he or she takes full responsibility and will be accountable for the information maintained by and disseminated from the system and that the operation of the system will be in compliance with the principles set forth in § 23.20.

(d) Where the system is an interjurisdictional criminal intelligence system, the governmental agency which exercises control and supervision over the operation of the system shall require that the head of that agency or an individual with general policymaking authority who has been expressly delegated such control and supervision by the head of the agency:

(1) assume official responsibility and accountability for actions taken in the name of the joint entity, and

(2) certify in writing that the official takes full responsibility and will be accountable for insuring that the information transmitted to the interjurisdictional system or to participating agencies will be in compliance with the principles set forth in § 23.20.

The principles set forth in § 23.20 shall be made part of the by-laws or operating procedures for that system. Each participating agency, as a condition of participation, must accept in writing those principles which govern the submission, maintenance and dissemination of information included as part of the interjurisdictional system.

(e) Intelligence information will be collected, maintained and disseminated primarily for State and local law enforcement efforts, including efforts involving Federal participation.

§ 23.40 Monitoring and auditing of grants for the funding of intelligence systems.

(a) Awards for the funding of intelligence systems will receive specialized monitoring and audit in accordance with a plan designed to insure compliance with operating principles as set forth in § 23.20. The plan shall be approved prior to award of funds.



(b) All such awards shall be subject to a special condition requiring compliance with the principles set forth in § 23.20.

(c) An annual notice will be published by OJP which will indicate the existence and the objective of all systems for the continuing interjurisdictional exchange of criminal intelligence information which are subject to the 28 CFR Part 23 Criminal Intelligence Systems Policies.

Laurie Robinson  
Acting Assistant Attorney General  
Office of Justice Programs  
(FR Doc. 93-22614 Filed 9-15-93; 8:45 am)

Criminal Intelligence Sharing Systems; Policy Clarification

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DEPARTMENT OF JUSTICE  
28 CFR Part 23  
[OJP(BJA)-1177B]  
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# 1993 Revision and Commentary

## 28 CFR Part 23

### Final Revision to the Office of Justice Programs, Criminal Intelligence Systems Operating Policies

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**AGENCY:** Office of Justice Programs, Justice.

**ACTION:** Final Rule

**SUMMARY:** The regulation governing criminal intelligence systems operating through support under Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, is being revised to update basic authority citations and nomenclature, to clarify the applicability of the regulation, to define terms, and to modify a number of the regulation's operating policies and funding guidelines.

**EFFECTIVE DATE:** September 16, 1993

**FOR FURTHER INFORMATION CONTACT:** Paul Kendall, Esquire, General Counsel, Office of Justice Programs, 633 Indiana Ave., NW., Suite 1245-E, Washington, DC 20531, Telephone (202) 307-6235.

**SUPPLEMENTARY INFORMATION:** The rule which this rule supersedes had been in effect and unchanged since September 17, 1980. A notice of proposed rulemaking for 28 CFR part 23, was published in the Federal Register on February 27, 1992, (57 FR 6691).

The statutory authorities for this regulation are section 801(a) and section 812(c) of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, (the Act), 42 U.S.C. 3782(a) and 3789g(c). 42 U.S.C. 3789g (c) and (d) provide as follows:

#### **Confidentiality of Information**

Sec. 812....

(c) All criminal intelligence systems operating through support under this title shall collect, maintain, and disseminate criminal intelligence information in conformance with policy standards which are prescribed by the Office of Justice Programs and which are written to assure that the funding and operation of these systems furthers the purpose of this title and to assure that such systems are not utilized in violation of the privacy and constitutional rights of individuals.

(d) Any person violating the provisions of this section, or of any rule, regulation, or order issued thereunder, shall be fined not to exceed \$10,000, in addition to any other penalty imposed by law.

This statutory provision and its implementing regulation apply to intelligence systems funded under title I of the Act, whether the system is operated by a single law enforcement agency, is an interjurisdictional intelligence system, is funded with discretionary grant funds, or is funded by a State with formula grant funds awarded under the Act's Drug Control and System Improvement Grant Program pursuant to part E, subpart 1 of the Act, 42 U.S.C. 3751-3759.

The need for change to 28 CFR part 23 grew out of the program experience of the Office of Justice Programs (OJP) and its component agency, the Bureau of Justice Assistance (BJA), with the regulation and the changing and expanding law enforcement agency need to respond to criminal mobility, the National drug program, the increased complexity of criminal networks and conspiracies, and the limited funding available to State and local law enforcement agencies. In addition, law enforcement's capability to perform intelligence data base and analytical functions has been enhanced by technological advancements and sophisticated analytical techniques.

28 CFR part 23 governs the basic requirements of the intelligence system process. The process includes:

1. Information submission or collection
2. Secure storage
3. Inquiry and search capability
4. Controlled dissemination
5. Purge and review process

Information systems that receive, store and disseminate information on individuals or organizations based on reasonable suspicion of their involvement in criminal activity are criminal intelligence systems under the regulation. The definition includes both systems that store detailed intelligence or investigative information on the suspected criminal activities of subjects and those which store only information designed to identify individuals or organizations that are the subject of an inquiry or analysis (a so-called "pointer system"). It does not include criminal history record information or identification (fingerprint) systems.

There are nine significant areas of change to the regulation:

(1) Nomenclature changes (authority citations, organizational names) are included to bring the regulation up to date.

(2) Definitions of terms (28 CFR 23.3(b)) are modified or added as appropriate. The term "intelligence system" is redefined to clarify the fact that historical telephone toll files, analytical information, and work products that are not either retained, stored, or exchanged and criminal history record information or identification (fingerprint) systems are excluded from the definition, and hence are not covered by the regulation; the terms "interjurisdictional intelligence system", "criminal intelligence information", "participating agency", "intelligence project", and "validation of information" are key terms that are defined in the regulation for the first time.

(3) The operating principles for intelligence systems (28 CFR 23.20) are modified to define the term "reasonable suspicion" or "criminal predicate". The finding of reasonable suspicion is a threshold requirement for entering intelligence information on an individual or organization into an intelligence data base (28 CFR 23.20(c)). This determination, as well as determinations that information was legally obtained (28 CFR 23.20(d)) and that a recipient of the information has a need to know and a right to know the information in the performance of a law enforcement function (28 CFR 23.20(e)), are established as the responsibility of the project for an interjurisdictional intelligence system. However, the regulation permits these responsibilities to be delegated to a properly trained participating agency which is subject to project inspection and audit (28 CFR 23.20(c),(d),(g)).

(4) Security requirements are established to protect the integrity of the intelligence data base and the information stored in the data base (28 CFR 23.20(g)(1)(i)-(vi)).

(5) The regulation provides that information retained in the system must be reviewed and validated for continuing compliance with system submission criteria within a 5-year retention period. Any information not validated within that period must be purged from the system (28 CFR 23.20(h)).

(6) Another change continues the general prohibition of direct remote terminal access to intelligence information in a funded intelligence system but provides an exception for systems which obtain express OJP approval based on a determination that the system has adequate policies and procedures in place to insure that access to system intelligence information is limited to authorized system users (28 CFR 23.20(i)(1)). OJP will carefully review all requests for exception to assure that a need exists and that system integrity will be provided and maintained (28 CFR 23.20(i)(1)).

(7) The regulation requires participating agencies to maintain back-up files for information submitted to an interjurisdictional intelligence system and provide for inspection and audit by project staff (28 CFR 23.20(h)).

(8) The final rule also includes a provision allowing the Attorney General or the Attorney General's designee to authorize a departure from the specific requirements of this part, in those cases where it is clearly shown that such waiver would promote the purposes and effectiveness of a criminal intelligence system while at the same time ensuring compliance with all applicable laws and protection for the privacy and constitutional

rights of individuals. The Department recognizes that other provisions of federal law may be applicable to (or may be adopted in the future with respect to) certain submitters or users of information in criminal intelligence systems. Moreover, as technological developments unfold over time in this area, experience may show that particular aspects of the requirements in this part may no longer be needed to serve their intended purpose or may even prevent desirable technological advances. Accordingly, this provision grants the flexibility to make such beneficial adaptations in particular cases or classes without the necessity to undertake a new rulemaking process. This waiver authority could only be exercised by the Attorney General or designee, in writing, upon a clear and convincing showing (28 CFR 23.20 (o)).

(9) The funding guidelines (28 CFR 23.30) are revised to permit funded intelligence systems to collect information either on organized criminal activity that represents a significant and recognized threat to the population or on criminal activity that is multi-jurisdictional in nature.

### **Rulemaking History**

On February 27, 1992, the Department of Justice, Office of Justice Programs, published a notice of proposed rulemaking in the Federal Register (57 FR 6691).

The Office of Justice Programs received a total of eleven comments on the proposed regulation, seven from State agencies, two from Regional Information Sharing Systems (RISS) program fund recipients, one from a Federal agency, and one from the RISS Project Directors Association. Comments will be discussed in the order in which they address the substance of the proposed regulation.

### **Discussion of Comments**

#### Title - Part 23

Comment: One commentor suggested reinserting the word "Operating" in the title of the regulation to read "Criminal Intelligence Systems Operating Policies" to reflect that the regulation applies only to policies governing system operations.

Response: Agreed. The title has been changed.

#### APPLICABILITY - SECTION 23.3(a)

Comment: A question was raised by one respondent as to whether the applicability of the regulation under Section 23.3(a) to systems "operating through support" under the Crime Control Act included agencies receiving any assistance funds and who operated an intelligence system or only those who received assistance funds for the specific purpose of funding the operation of an intelligence system.

Response: The regulation applies to grantees and subgrantees who receive and use Crime Control Act funds to fund the operation of an intelligence system.

Comment: Another commentor asked whether the purchase of software, office equipment, or the payment of staff salaries for a criminal intelligence system would constitute "operating through support" under the Crime Control Act.

Response: Any direct Crime Control Act fund support that contributes to the operation of a criminal intelligence system would subject the system to the operation of the policy standards during the period of fund support.

Comment: A third commentor inquired whether an agency's purchase of a telephone pen register or computer equipment to store and analyze pen register information would subject the agency or its information systems to the regulation.

Response: No, neither a pen register nor equipment to analyze telephone toll information fall under the definition of a criminal intelligence system even though they may assist an agency to produce investigative or other information for an intelligence system.

#### APPLICABILITY - SECTION 23.3(b)

Comment: Several commentors questioned whether information systems that are designed to collect information on criminal suspects for purposes of inquiry and analysis, and which provide for dissemination of such information, qualify as "criminal intelligence systems." One pointed out that the information qualifying for system submission could not be "unconfirmed" or "soft" intelligence. Rather, it would generally have to be

investigative file-based information to meet the "reasonable suspicion" test.

**Response:** The character of an information system as a criminal intelligence system does not depend upon the source or categorization of the underlying information as "raw" or "soft" intelligence, preliminary investigation information, or investigative information, findings or determinations. It depends upon the purpose for which the information system exists and the type of information it contains. If the purpose of the system is to collect and share information with other law enforcement agencies on individuals reasonably suspected of involvement in criminal activity, and the information is identifying or descriptive information about the individual and the suspected criminal activity, then the system is a criminal intelligence system for purposes of the regulation. Only those criminal intelligence systems that receive, store and provide for the interagency exchange and analysis of criminal intelligence information in a manner consistent with this regulation are eligible for funding support with Crime Control Act funds.

**Comment:** One respondent asked whether the definition of criminal intelligence system covered criminal history record information (CHRI) systems, fugitive files, or other want or warrant based information systems.

**Response:** No. A CHRI system contains information collected on arrests, detention, indictments, informations or other charges, dispositions, sentencing, correctional supervision, and release. It encompasses systems designed to collect, process, preserve, or disseminate such information.

CHRI is factual, historical and objective information which provides a criminal justice system "profile" of an individual's past and present involvement in the criminal justice system. A fugitive file is designed to provide factual information to assist in the arrest of individuals for whom there is an outstanding want or warrant. Criminal intelligence information, by contrast, is both factual and conjectural (reasonable suspicion), current and subjective. It is intended for law enforcement use only, to provide law enforcement officers and agencies with useful information on criminal suspects and to foster interagency coordination and cooperation. A criminal intelligence system can have criminal history record information in it as an identifier but a CHRI system would not contain the suspected criminal activity information contained in a criminal intelligence system.

This distinction provides the basis for the limitations on criminal intelligence systems set forth in the operating policies. Because criminal intelligence information is both conjectural and subjective in nature, may be widely disseminated through the interagency exchange of information and cannot be accessed by criminal suspects to verify that the information is accurate and complete, the protections and limitations set forth in the regulation are necessary to protect the privacy interests of the subjects and potential subjects of a criminal intelligence system.

**Comment:** Another commentor asked whether a law enforcement agency's criminal intelligence information unit, located at headquarters, which authorizes no outside access to information in its intelligence system, would be subject to the regulation.

**Response:** No. The sharing of investigative or general file information on criminal subjects within an agency is a practice that takes place on a daily basis and is necessary for the efficient and effective operation of a law enforcement agency. Consequently, whether such a system is described as a case management or intelligence system, the regulation is not intended to apply to the exchange or sharing of such information when it takes place within a single law enforcement agency or organizational entity. For these purposes, an operational multi-jurisdictional task force would be considered a single organizational entity provided that it is established by and operates under a written memorandum of understanding or interagency agreement. The definition of "Criminal Intelligence System" has been modified to clarify this point. However, if a single agency or entity system provides access to system information to outside agencies on an inquiry or request basis, as a matter of either policy or practice, the system would qualify as a criminal intelligence system and be subject to the regulation.

**Comment:** A commentor questioned whether the proposed exclusion of "analytical information and work products" from the definition of "Intelligence System" was intended to exclude all dissemination of analytical results from coverage under the regulation.

**Response:** No. The exceptions in the proposed definition of "Intelligence System" of modus operandi files, historical telephone toll files and analytical information and work products are potentially confusing. The exceptions reflect types of data that may or may not qualify as "Criminal Intelligence Information" depending on particular facts and circumstances. Consequently, these exceptions have been deleted from the definition

of "Intelligence System" in the final rule. For example, analytical information and work products that are derived from unevaluated or bulk data (i.e. information that has not been tested to determine that it meets intelligence system submission criteria) are not intelligence information if they are returned to the submitting agency. This information and its products cannot be retained, stored, or made available for dissemination in an intelligence system unless and until the information has been evaluated and determined to meet system submission criteria. The proposed definition of "Analytical Information and Work Products" in Section 23.3(b) has also been deleted.

To address the above issues, the definition of "Intelligence System" has been modified to define a "Criminal Intelligence System or Intelligence System" to mean "the arrangements, equipment, facilities, and procedures used for the receipt, storage, interagency exchange or dissemination, and analysis of criminal intelligence information."

Comment: Several commentors raised questions regarding the concept of "evaluated data" in the definition of "Criminal Intelligence Information", requesting guidance on what criteria to use in evaluating data. Another questioned whether there needed to be an active investigation as the basis for information to fall within the definition and whether information on an individual who or organization which is not the primary subject or target of an investigation or other data source, e.g. a criminal associate or co-conspirator, can qualify as "Criminal Intelligence Information."

Response: The definition of "Criminal Intelligence Information" has been revised to reflect that data is evaluated for two purposes related to criminal intelligence system submissions: (1) to determine that it is relevant in identifying a criminal suspect and the criminal activity involved; and (2) to determine that the data meets criminal intelligence system submission criteria, including reasonable suspicion of involvement in criminal activity. As rewritten, there is no requirement that an "active investigation" is necessary. Further, the revised language makes it clear that individuals or organizations who are not primary subjects or targets can be identified in the criminal intelligence information, provided that they independently meet system submission criteria.

Comment: One commentor requested clarification of the role of the "Project" in the operation of an intelligence system, i.e. is the project required to have physical control (possession) of the information in an intelligence system or will authority over the system (operational control) suffice?

Response: Operational control over an intelligence system's intelligence information is sufficient. The regulation seeks to establish a single locus of authority and responsibility for system information. Once that principle is established, the regulation permits, for example, the establishment of remote (off premises) data bases that meet applicable security requirements.

#### OPERATING PRINCIPLES - SECTION 23.20(c)

Comment: One respondent took the position that "Reasonable Suspicion", as defined in Section 23.20 (c), is not necessary to the protection of individual privacy and Constitutional rights, suggesting instead that information in a funded intelligence system need only be "necessary and relevant to an agency's lawful purposes."

Response: While it is agreed that the standard suggested is appropriate for investigative or other information files maintained for use by or within an agency, the potential for national dissemination of information in intelligence information systems, coupled with the lack of access by subjects to challenge the information, justifies the reasonable suspicion standard as well as other operating principle restrictions set forth in this regulation. Also, the quality and utility of "hits" in an information system is enhanced by the reasonable suspicion requirement. Scarce resources are not wasted by agencies in coordinating information on subjects for whom information is vague, incomplete and conjectural.

Comment: The prior commentor also criticized the proposed definition of reasonable suspicion for its specific reference to an "investigative file" as the source of intelligence system information, the potential inconsistency between the concepts of "infer" and "conclude" as standards for determining whether reasonable suspicion is justified by the information available, and the use of "reasonable possibility" rather than "articulable" or "sufficient" facts as the operative standard to conclude that reasonable suspicion exists.

Response: The reference to an "investigative file" as the information source has been broadened to encompass any information source. The information available must provide a basis for the submitter to "believe" there is a reasonable possibility of the subject's involvement in the criminal activity or enterprise.

The concept of a "basis to believe" requires reasoning and logic coupled with sound judgment based on experience in law enforcement rather than a mere hunch, whim, or guess. The belief that is formed, that there is a "reasonable possibility" of criminal involvement, has been retained because the proposed standard is appropriately less restrictive than that which is required to establish probable cause.

#### OPERATING PRINCIPLES - SECTION 23.20(d)

**Comment:** Section 23.20(d) prohibits the inclusion in an intelligence system of information obtained in violation of Federal, State, or local law or ordinance. Would a project be potentially liable for accepting, maintaining and disseminating such information even if it did not know that the information was illegally obtained?

**Response:** In addition to protecting the rights of individuals and organizations that may be subjects in a criminal intelligence system, this prohibition serves to protect a project from liability for disseminating illegally obtained information. A clear project policy that prohibits the submission of illegally obtained information, coupled with an examination of supporting information to determine that the information was obtained legally or the delegation of such authority to a properly trained participating agency, and the establishment and performance of routine inspection and audit of participating agency records, should be sufficient to shield a project from potential liability based on negligence in the performance of its intelligence information screening function.

#### OPERATING PRINCIPLES - SECTION 23.20(h)

**Comment:** One commentor requested clarification of the "periodic review" requirement in Section 23.20(h) and what constitutes an "explanation of decision to retain" information.

**Response:** The periodic review requirement is designed to insure that system information is accurate and as up-to-date as reasonably possible. When a review has occurred, the record is appropriately updated and notated. The explanation of decision to retain can be a variety of reasons including "active investigation", "preliminary review in progress", "subject believed still active in jurisdiction", and the like. When information that has been reviewed or updated and a determination made that it continues to meet system submission criteria, the information has been "validated" and begins a new retention period. The regulation limits the retention period to a maximum of five years without a review and validation of the information.

#### OPERATING PRINCIPLES - SECTION 23.20(i)

**Comment:** One commentor requested a definition of "remote terminal" and asked how OJP would determine whether "adequate policies and procedures" are in place to insure the continued integrity of a criminal intelligence system.

**Response:** A "remote terminal" is hardware that enables a participating agency to input into or access information from a project's criminal intelligence data base without the intervention of project staff. While the security requirements set forth in Section 23.20(g)(1)-(5) should minimize the threat to system integrity from unauthorized access to and the use of system information, special measures are called for when direct remote terminal access is authorized.

The Office of Justice Programs will expect any request for approval of remote terminal access to include information on the following system protection measures:

1. Procedures for identification of authorized remote terminals and security of terminals;
2. Authorized access officer (remote terminal operator) identification and verification procedures;
3. Provisions for the levels of dissemination of information as directed by the submitting agency;
4. Provisions for the rejection of submissions unless critical data fields are completed;
5. Technological safeguards on system access, use, dissemination, and review and purge;
6. Physical security of the system;

7. Training and certification of system-participating agency personnel;
8. Provisions for the audit of system-participating agencies, to include: file data supporting submissions to the system; security of access terminals; and policy and procedure compliance; and
9. Documentation for audit trails of the entire system operation.

Moreover, a waiver provision has been added to ensure flexibility in adapting quickly to technological and legal changes which may impact any of the requirements contained in this regulation. See Section 23.20 (o).

Comment: Related to the above discussion, another commentor asked whether restrictions on direct remote terminal access would prohibit remote access to an "index" of information in the system.

Response: Yes. The ability to obtain all information directly from a criminal intelligence system through the use of hardware based outside the system constitutes direct remote terminal access contrary to the provisions of Section 23.20(i)(1), except as specifically approved by OJP. Thus, a hit/no hit response, if gleaned from an index, would bring a remote terminal within the scope of the requirement for OJP approval of direct remote terminal access.

Comment: One commentor pointed out that the requirement for prior OJP approval of "modifications to system design" was overly broad and could be read to require that even minor changes be submitted for approval. The commentor proposed a substitute which would limit the requirement to those modifications "that alter the system's identified goals in a way contrary to the requirements of (this regulation)."

Response: While it is agreed that the language is broad, the proposed limitation is too restrictive. The intent was that "modifications to system design" refer to "major" changes to the system, such as the nature of the information collected, the place or method of information storage, the authorized uses of information in the system, and provisions for access to system information by authorized participating agencies. This clarification has been incorporated in the regulation. In order to decentralize responsibility for approval of system design modifications, the proposed regulation has been revised to provide for approval of such modifications by the grantor agency rather than OJP. A similar change has been made to Section 23.20(j).

#### OPERATING PRINCIPLES - SECTION 23.20(n)

Comment: Several commentors expressed concern with the verification procedures set forth in Section 23.20(n). One suggested that file information cannot "verify" the correctness of submissions but instead serves to "document" or "substantiate" its correctness. Another proposed deleting the requirements that (1) files maintained by participating agencies to support system submissions be subject to the operating principles, and (2) participating agencies are authorized to maintain such files separately from other agency files. The first requirement conflicts with the normal investigative procedures of a law enforcement agency in that all information in agency source files cannot meet the operating principles, particularly the reasonable suspicion and relevancy requirements. The important principle is that the information which is gleaned from an agency's source files and submitted to the system meet the operating principles. The second requirement has no practical value. At most, it results in the creation of duplicative files or in submission information being segregated from source files.

Response: OJP agrees with both comments. The word "documents" has been substituted for "verifies" and the provisions subjecting participating agency source files to the operating principles and authorizing maintenance of separate files have been deleted. Projects should use their audit and inspection access to agency source files to document the correctness of participating agency submissions on a sample basis.

#### FUNDING GUIDELINES - SECTION 23.30(b)

Comment: One commentor asked: Who defines the areas of criminal activity that "represent a significant and recognized threat to the population?"

Response: The determination of areas of criminal activity focus and priority are matters for projects, project policy boards and member agencies to determine, provided that the additional regulatory requirements set forth in Section 23.30(b) are met.

#### MONITORING AND AUDITING OF GRANTS - SECTION 23.40(a)



Comment: One commentor asked: "Who is responsible for developing the specialized monitoring and audit of awards for intelligence systems to insure compliance with the operating principles"?

Response: The grantor agency (the agency awarding a sub-grant to support an intelligence system) shall establish and approve a plan for specialized monitoring and audit of sub-awards prior to award. For the BJA Formula Grant Program, the State agency receiving the award from BJA is the grantor agency. Technical assistance and support in establishing a monitoring and audit plan is available through BJA.

#### INFORMATION ON JUVENILES

Comment: Can intelligence information pertaining to a juvenile who otherwise meets criminal intelligence system submission criteria be entered into an intelligence data base?

Response: There is no limitation or restriction on entering intelligence information on juvenile subjects set forth in Federal law or regulation. However, State law may restrict or prohibit the maintenance or dissemination of such information by its law enforcement agencies. Therefore, State laws should be carefully reviewed to determine their impact on this practice and appropriate project policies adopted.

#### **Executive Order 12291**

These regulations are not a "major rule" as defined by section 1(b) of Executive Order No. 12291, 3 CFR part 127 (1981), because they do not result in: (a) An effect on the economy of \$100 million or more, (b) a major increase in any costs or prices, or (c) adverse effects on competition, employment, investment, productivity, or innovation among American enterprises.

#### **Regulatory Flexibility Act**

These regulations are not a rule within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601-612. These regulations, if promulgated, will not have a "significant" economic impact on a substantial number of small "entities," as defined by the Regulatory Flexibility Act.

#### **Paperwork Reduction Act**

There are no collection of information requirements contained in the proposed regulation.

#### **List of Subjects in 28 CFR Part 23**

Administrative practice and procedure, Grant programs, Intelligence, Law Enforcement.

For the reasons set out in the preamble, title 28, part 23 of the Code of Federal Regulations is revised to read as follows:

#### **PART 23--CRIMINAL INTELLIGENCE SYSTEMS OPERATING POLICIES Sec.**

1. Purpose.
2. Background.
3. Applicability.
4. Operating principles.
5. Funding guidelines.
6. Monitoring and auditing of grants for the funding of intelligence systems.

**Authority:** 42 U.S.C. 3782(a); 42 U.S.C. 3789g(c).

#### **§ 23.1 Purpose.**

The purpose of this regulation is to assure that all criminal intelligence systems operating through support under the Omnibus Crime Control and Safe Streets Act of 1968, 42 U.S.C. 3711, et seq., as amended (Pub. L. 90-351, as amended by Pub. L. 91-644, Pub. L. 93-83, Pub. L. 93-415, Pub. L. 94-430, Pub. L. 94-503, Pub. L. 95-115, Pub. L. 96-157, Pub. L. 98-473, Pub. L. 99-570, Pub. L. 100-690, and Pub. L. 101-647), are utilized in conformance with the privacy and constitutional rights of individuals.

#### **§ 23.2 Background.**

It is recognized that certain criminal activities including but not limited to loan sharking, drug trafficking, trafficking in stolen property, gambling, extortion, smuggling, bribery, and corruption of public officials often involve some degree of regular coordination and permanent organization involving a large number of participants over a broad geographical area. The exposure of such ongoing networks of criminal activity can

be aided by the pooling of information about such activities. However, because the collection and exchange of intelligence data necessary to support control of serious criminal activity may represent potential threats to the privacy of individuals to whom such data relates, policy guidelines for Federally funded projects are required.

### **§ 23.3 Applicability.**

(a) These policy standards are applicable to all criminal intelligence systems operating through support under the Omnibus Crime Control and Safe Streets Act of 1968, 42 U.S.C. 3711, et seq., as amended (Pub. L. 90-351, as amended by Pub. L. 91-644, Pub. L. 93-83, Pub. L. 93-415, Pub. L. 94-430, Pub. L. 94-503, Pub. L. 95-115, Pub. L. 96-157, Pub. L. 98-473, Pub. L. 99-570, Pub. L. 100-690, and Pub. L. 101-647).

(b) As used in these policies: (1) Criminal Intelligence System or Intelligence System means the arrangements, equipment, facilities, and procedures used for the receipt, storage, interagency exchange or dissemination, and analysis of criminal intelligence information; (2) Interjurisdictional Intelligence System means an intelligence system which involves two or more participating agencies representing different governmental units or jurisdictions; (3) Criminal Intelligence Information means data which has been evaluated to determine that it: (i) is relevant to the identification of and the criminal activity engaged in by an individual who or organization which is reasonably suspected of involvement in criminal activity, and (ii) meets criminal intelligence system submission criteria; (4) Participating Agency means an agency of local, county, State, Federal, or other governmental unit which exercises law enforcement or criminal investigation authority and which is authorized to submit and receive criminal intelligence information through an interjurisdictional intelligence system. A participating agency may be a member or a nonmember of an interjurisdictional intelligence system; (5) Intelligence Project or Project means the organizational unit which operates an intelligence system on behalf of and for the benefit of a single agency or the organization which operates an interjurisdictional intelligence system on behalf of a group of participating agencies; and (6) Validation of Information means the procedures governing the periodic review of criminal intelligence information to assure its continuing compliance with system submission criteria established by regulation or program policy.

### **§ 23.20 Operating principles.**

(a) A project shall collect and maintain criminal intelligence information concerning an individual only if there is reasonable suspicion that the individual is involved in criminal conduct or activity and the information is relevant to that criminal conduct or activity.

(b) A project shall not collect or maintain criminal intelligence information about the political, religious or social views, associations, or activities of any individual or any group, association, corporation, business, partnership, or other organization unless such information directly relates to criminal conduct or activity and there is reasonable suspicion that the subject of the information is or may be involved in criminal conduct or activity.

(c) Reasonable Suspicion or Criminal Predicate is established when information exists which establishes sufficient facts to give a trained law enforcement or criminal investigative agency officer, investigator, or employee a basis to believe that there is a reasonable possibility that an individual or organization is involved in a definable criminal activity or enterprise. In an interjurisdictional intelligence system, the project is responsible for establishing the existence of reasonable suspicion of criminal activity either through examination of supporting information submitted by a participating agency or by delegation of this responsibility to a properly trained participating agency which is subject to routine inspection and audit procedures established by the project.

(d) A project shall not include in any criminal intelligence system information which has been obtained in violation of any applicable Federal, State, or local law or ordinance. In an interjurisdictional intelligence system, the project is responsible for establishing that no information is entered in violation of Federal, State, or local laws, either through examination of supporting information submitted by a participating agency or by delegation of this responsibility to a properly trained participating agency which is subject to routine inspection and audit procedures established by the project.

(e) A project or authorized recipient shall disseminate criminal intelligence information only where there is a need to know and a right to know the information in the performance of a law enforcement activity.

(f) (1) Except as noted in paragraph (f) (2) of this section, a project shall disseminate criminal intelligence

information only to law enforcement authorities who shall agree to follow procedures regarding information receipt, maintenance, security, and dissemination which are consistent with these principles.

(2) Paragraph (f) (1) of this section shall not limit the dissemination of an assessment of criminal intelligence information to a government official or to any other individual, when necessary, to avoid imminent danger to life or property.

(g) A project maintaining criminal intelligence information shall ensure that administrative, technical, and physical safeguards (including audit trails) are adopted to insure against unauthorized access and against intentional or unintentional damage. A record indicating who has been given information, the reason for release of the information, and the date of each dissemination outside the project shall be kept. Information shall be labeled to indicate levels of sensitivity, levels of confidence, and the identity of submitting agencies and control officials. Each project must establish written definitions for the need to know and right to know standards for dissemination to other agencies as provided in paragraph (e) of this section. The project is responsible for establishing the existence of an inquirer's need to know and right to know the information being requested either through inquiry or by delegation of this responsibility to a properly trained participating agency which is subject to routine inspection and audit procedures established by the project. Each intelligence project shall assure that the following security requirements are implemented:

(1) Where appropriate, projects must adopt effective and technologically advanced computer software and hardware designs to prevent unauthorized access to the information contained in the system;

(2) The project must restrict access to its facilities, operating environment and documentation to organizations and personnel authorized by the project;

(3) The project must store information in the system in a manner such that it cannot be modified, destroyed, accessed, or purged without authorization;

(4) The project must institute procedures to protect criminal intelligence information from unauthorized access, theft, sabotage, fire, flood, or other natural or manmade disaster;

(5) The project must promulgate rules and regulations based on good cause for implementing its authority to screen, reject for employment, transfer, or remove personnel authorized to have direct access to the system; and

(6) A project may authorize and utilize remote (off-premises) system data bases to the extent that they comply with these security requirements.

(h) All projects shall adopt procedures to assure that all information which is retained by a project has relevancy and importance. Such procedures shall provide for the periodic review of information and the destruction of any information which is misleading, obsolete or otherwise unreliable and shall require that any recipient agencies be advised of such changes which involve errors or corrections. All information retained as a result of this review must reflect the name of the reviewer, date of review and explanation of decision to retain. Information retained in the system must be reviewed and validated for continuing compliance with system submission criteria before the expiration of its retention period, which in no event shall be longer than five (5) years.

(i) If funds awarded under the Act are used to support the operation of an intelligence system, then:

(1) No project shall make direct remote terminal access to intelligence information available to system participants, except as specifically approved by the Office of Justice Programs (OJP) based on a determination that the system has adequate policies and procedures in place to insure that it is accessible only to authorized systems users; and

(2) A project shall undertake no major modifications to system design without prior grantor agency approval.

(j) A project shall notify the grantor agency prior to initiation of formal information exchange procedures with any Federal, State, regional, or other information systems not indicated in the grant documents as initially approved at time of award.

(k) A project shall make assurances that there will be no purchase or use in the course of the project of any

electronic, mechanical, or other device for surveillance purposes that is in violation of the provisions of the Electronic Communications Privacy Act of 1986, Public Law 99-508, 18 U.S.C. 2510-2520, 2701-2709 and 3121-3125, or any applicable State statute related to wiretapping and surveillance.

(l) A project shall make assurances that there will be no harassment or interference with any lawful political activities as part of the intelligence operation.

(m) A project shall adopt sanctions for unauthorized access, utilization, or disclosure of information contained in the system.

(n) A participating agency of an interjurisdictional intelligence system must maintain in its agency files information which documents each submission to the system and supports compliance with project entry criteria. Participating agency files supporting system submissions must be made available for reasonable audit and inspection by project representatives. Project representatives will conduct participating agency inspection and audit in such a manner so as to protect the confidentiality and sensitivity of participating agency intelligence records.

(o) The Attorney General or designee may waive, in whole or in part, the applicability of a particular requirement or requirements contained in this part with respect to a criminal intelligence system, or for a class of submitters or users of such system, upon a clear and convincing showing that such waiver would enhance the collection, maintenance or dissemination of information in the criminal intelligence system, while ensuring that such system would not be utilized in violation of the privacy and constitutional rights of individuals or any applicable state or federal law.

#### **§ 23.30 Funding guidelines.**

The following funding guidelines shall apply to all Crime Control Act funded discretionary assistance awards and Bureau of Justice Assistance (BJA) formula grant program subgrants, a purpose of which is to support the operation of an intelligence system. Intelligence systems shall only be funded where a grantee/subgrantee agrees to adhere to the principles set forth above and the project meets the following criteria:

(a) The proposed collection and exchange of criminal intelligence information has been coordinated with and will support ongoing or proposed investigatory or prosecutorial activities relating to specific areas of criminal activity.

(b) The areas of criminal activity for which intelligence information is to be utilized represent a significant and recognized threat to the population and:

(1) Are either undertaken for the purpose of seeking illegal power or profits or pose a threat to the life and property of citizens; and

(2) Involve a significant degree of permanent criminal organization; or

(3) Are not limited to one jurisdiction.

(c) The head of a government agency or an individual with general policy making authority who has been expressly delegated such control and supervision by the head of the agency will retain control and supervision of information collection and dissemination for the criminal intelligence system. This official shall certify in writing that he or she takes full responsibility and will be accountable for the information maintained by and disseminated from the system and that the operation of the system will be in compliance with the principles set forth in § 23.20.

(d) Where the system is an interjurisdictional criminal intelligence system, the governmental agency which exercises control and supervision over the operation of the system shall require that the head of that agency or an individual with general policymaking authority who has been expressly delegated such control and supervision by the head of the agency:

(1) assume official responsibility and accountability for actions taken in the name of the joint entity, and

(2) certify in writing that the official takes full responsibility and will be accountable for insuring that the information transmitted to the interjurisdictional system or to participating agencies will be in compliance with

the principles set forth in § 23.20.

The principles set forth in § 23.20 shall be made part of the by-laws or operating procedures for that system. Each participating agency, as a condition of participation, must accept in writing those principles which govern the submission, maintenance and dissemination of information included as part of the interjurisdictional system.

(e) Intelligence information will be collected, maintained and disseminated primarily for State and local law enforcement efforts, including efforts involving Federal participation.

**§ 23.40 Monitoring and auditing of grants for the funding of intelligence systems.**

(a) Awards for the funding of intelligence systems will receive specialized monitoring and audit in accordance with a plan designed to insure compliance with operating principles as set forth in § 23.20. The plan shall be approved prior to award of funds.

(b) All such awards shall be subject to a special condition requiring compliance with the principles set forth in § 23.20.

(c) An annual notice will be published by OJP which will indicate the existence and the objective of all systems for the continuing interjurisdictional exchange of criminal intelligence information which are subject to the 28 CFR Part 23 Criminal Intelligence Systems Policies.

Laurie Robinson  
Acting Assistant Attorney General  
Office of Justice Programs  
(FR Doc. 93-22614 Filed 9-15-93; 8:45 am)

# 1998 Policy Clarification

AGENCY: Bureau of Justice Assistance (BJA), Office of Justice Programs (OJP), Justice.

ACTION: Clarification of policy.

SUMMARY: The current policy governing the entry of identifying information into criminal intelligence sharing systems requires clarification. This policy clarification is to make clear that the entry of individuals, entities and organizations, and locations that do not otherwise meet the requirements of reasonable suspicion is appropriate when it is done solely for the purposes of criminal identification or is germane to the criminal subject's criminal activity. Further, the definition of "criminal intelligence system" is clarified.

EFFECTIVE DATE: This clarification is effective December 30, 1998.

FOR FURTHER INFORMATION CONTACT: Paul Kendall, General Counsel, Office of Justice Programs, 810 7th Street NW, Washington, DC 20531, (202) 307-6235.

SUPPLEMENTARY INFORMATION: The operation of criminal intelligence information systems is governed by 28 CFR Part 23. This regulation was written to both protect the privacy rights of individuals and to encourage and expedite the exchange of criminal intelligence information between and among law enforcement agencies of different jurisdictions. Frequent interpretations of the regulation, in the form of policy guidance and correspondence, have been the primary method of ensuring that advances in technology did not hamper its effectiveness.

## Comments

The clarification was opened to public comment. Comments expressing unreserved support for the clarification were received from two Regional Intelligence Sharing Systems (RISS) and five states. A comment from the Chairperson of a RISS, relating to the use of identifying information to begin new investigations, has been incorporated. A single negative comment was received, but was not addressed to the subject of this clarification.

## Use of Identifying Information

28 CFR 23.3(b)(3) states that criminal intelligence information that can be put into a criminal intelligence sharing system is "information relevant to the identification of and the criminal activity engaged in by an individual who or organization which is reasonably suspected of involvement in criminal activity, and . . . meets criminal intelligence system submission criteria." Further, 28 CFR 23.20(a) states that a system shall only collect information on an individual if "there is reasonable suspicion that the individual is involved in criminal conduct or activity and the information is relevant to that criminal conduct or activity." 28 CFR 23.20(b) extends that limitation to [page 71753] collecting information on groups and corporate entities.

In an effort to protect individuals and organizations from the possible taint of having their names in intelligence systems (as defined at 28 CFR Sec. 23.3(b)(1)), the Office of Justice Programs has previously interpreted this section to allow information to be placed in a system only if that information independently meets the requirements of the regulation. Information that might be vital to identifying potential criminals, such as favored locations and companions, or names of family members, has been excluded from the systems. This policy has hampered the effectiveness of many criminal intelligence sharing systems.

Given the swiftly changing nature of modern technology and the expansion of the size and complexity of criminal organizations, the Bureau of Justice Assistance (BJA) has determined that it is necessary to clarify this element of 28 CFR Part 23. Many criminal intelligence databases are now employing "Comment" or "Modus Operandi" fields whose value would be greatly enhanced by the ability to store more detailed and wide-ranging identifying information. This may include names and limited data about people and organizations that are not suspected of any criminal activity or involvement, but merely aid in the

identification and investigation of a criminal suspect who independently satisfies the reasonable suspicion standard.

Therefore, BJA issues the following clarification to the rules applying to the use of identifying information. Information that is relevant to the identification of a criminal suspect or to the criminal activity in which the suspect is engaged may be placed in a criminal intelligence database, provided that (1) appropriate disclaimers accompany the information noting that it is strictly identifying information, carrying no criminal connotations; (2) identifying information may not be used as an independent basis to meet the requirement of reasonable suspicion of involvement in criminal activity necessary to create a record or file in a criminal intelligence system; and (3) the individual who is the criminal suspect identified by this information otherwise meets all requirements of 28 CFR Part 23. This information may be a searchable field in the intelligence system.

For example: A person reasonably suspected of being a drug dealer is known to conduct his criminal activities at the fictional "Northwest Market." An agency may wish to note this information in a criminal intelligence database, as it may be important to future identification of the suspect. Under the previous interpretation of the regulation, the entry of "Northwest Market" would not be permitted, because there was no reasonable suspicion that the "Northwest Market" was a criminal organization. Given the current clarification of the regulation, this will be permissible, provided that the information regarding the "Northwest Market" was clearly noted to be non-criminal in nature. For example, the data field in which "Northwest Market" was entered could be marked "Non-Criminal Identifying Information," or the words "Northwest Market" could be followed by a parenthetical comment such as "This organization has been entered into the system for identification purposes only - it is not suspected of any criminal activity or involvement." A criminal intelligence system record or file could not be created for "Northwest Market" solely on the basis of information provided, for example, in a comment field on the suspected drug dealer. Independent information would have to be obtained as a basis for the opening of a new criminal intelligence file or record based on reasonable suspicion on "Northwest Market." Further, the fact that other individuals frequent "Northwest Market" would not necessarily establish reasonable suspicion for those other individuals, as it relates to criminal intelligence systems.

#### The Definition of a "Criminal Intelligence System"

The definition of a "criminal intelligence system" is given in 28 CFR 23.3(b)(1) as the "arrangements, equipment, facilities, and procedures used for the receipt, storage, interagency exchange or dissemination, and analysis of criminal intelligence information . . ." Given the fact that cross-database searching techniques are now common-place, and given the fact that multiple databases may be contained on the same computer system, BJA has determined that this definition needs clarification, specifically to differentiate between criminal intelligence systems and non-intelligence systems.

The comments to the 1993 revision of 28 CFR Part 23 noted that "the term 'intelligence system' is redefined to clarify the fact that historical telephone toll files, analytical information, and work products that are not either retained, stored, or exchanged and criminal history record information or identification (fingerprint) systems are excluded from the definition, and hence are not covered by the regulation . . ." 58 FR 48448-48449 (Sept. 16, 1993.) The comments further noted that materials that "may assist an agency to produce investigative or other information for an intelligence system . . ." do not necessarily fall under the regulation. Id.

The above rationale for the exclusion of non-intelligence information sources from the definition of "criminal intelligence system," suggests now that, given the availability of more modern non-intelligence information sources such as the Internet, newspapers, motor vehicle administration records, and other public record information on-line, such sources shall not be considered part of criminal intelligence systems, and shall not be covered by this regulation, even if criminal intelligence systems access such sources during searches on criminal suspects. Therefore, criminal intelligence systems may conduct searches across the spectrum of non-intelligence systems without those systems being brought under 28 CFR Part 23. There is also no limitation on such non-intelligence information being stored on the same computer system as criminal intelligence information, provided that sufficient precautions are in place to separate the two types of information and to make it clear to operators and users of the information that two different types of information are being accessed.

Such precautions should be consistent with the above clarification of the rule governing the use of identifying information. This could be accomplished, for example, through the use of multiple windows, differing colors of data or clear labeling of the nature of information displayed.

Additional guidelines will be issued to provide details of the above clarifications as needed.

Dated: December 22, 1998.

Nancy Gist  
Director, Bureau of Justice Assistance  
[FR Doc. 98-34547 Filed 12-29-98; 8:45 am]  
BILLING CODE 4410-18-P



**INVESTIGATIONS DIVISION  
SPECIAL INVESTIGATIONS BUREAU  
GANG ENFORCEMENT TEAM  
ORANGE COUNTY SHERIFF-CORONER DEPARTMENT**

**SECTION: 7-1**

**SUBJECT: MISSION STATEMENT**

The mission of the Gang Enforcement Team (GET), is to actively suppress gang related criminal activity, gather information on known gang members and their associates, maintain contact with known gang members and their associates, and to assist other investigative details with investigation and prosecution of gang related crime.

Gang related investigations are by nature, sensitive areas of police work. Protection of sources of information and managing information about gang members and gang related activity is absolutely essential. GET personnel are expected to exercise discretion at all times outside of the GET Detail. Dissemination of information should be done on a need-to-know basis. This includes the sharing of information with other police agents, prosecutors, attorneys and judicial staff.

It may become necessary to reveal the identity of an informant to a Deputy District Attorney, Assistant United States Attorney or defense attorney in response to an order by a competent court. The wisdom of doing so should be discussed with the GET supervisor and the prosecuting agency prior to courtroom testimony.

Should any questions arise in the GET deputy's mind about releasing information, the matter will be referred to the GET supervisor.

**INVESTIGATIONS DIVISION  
SPECIAL INVESTIGATIONS BUREAU  
GANG ENFORCEMENT TEAM (GET)  
ORANGE COUNTY SHERIFF-CORONER DEPARTMENT**

**SECTION: 7-2**

**SUBJECT: GANG INVESTIGATIONS AND RESPONSIBILITIES**

**I. INTRODUCTION**

**A. Purpose**

The purpose of this policy is to establish guidelines to assist deputies in conducting investigations of various gang activities.

**B. Background**

Gang investigations comprise a wide variety of investigative skills. The GET deputy may use both overt and covert techniques in gang related investigations and the use of informants.

**C. Scope of Policy**

This policy applies to all GET personnel.

**D. Accountability**

It is the responsibility of GET personnel to be aware of these guidelines to help assist in the investigation of gang related cases.

**E. Training**

It is the responsibility of the unit supervisors to ensure that new personnel are familiar with the investigative guidelines concerning various types of gang investigations.

**II. POLICY GUIDELINES**

**A. Case Agent**

1. Each case will be assigned a GET deputy who will be the "case agent." The case agent is responsible for the planning and execution of the goals

for each investigation. The case agent will ensure that the GET supervisor is updated on all cases undertaken. At the conclusion of the investigation, the case agent will make certain that all reports have been written and submitted throughout the appropriate systems.

2. The case agent will act as a liaison with the prosecuting agency and be responsible for all matters necessary for a successful prosecution. The case agent will ensure that all discovery items are prepared and delivered to the prosecuting agency. The case agent will not discover any evidentiary material or reports to any other attorney or police agency, without prior permission of the prosecuting attorney and the unit supervisor.
3. The case agent will never undertake a dual role as an undercover operator while engaged as the case agent.
4. The case agent will, at times, find it necessary to utilize the services of a "co-case agent." The case agent is, nevertheless, accountable for the successful conclusion of all investigations undertaken and the integrity of the case.
5. The case agent will be accountable for all moneys expended during investigations, including those funds expended by other officers or informants.

**B. Case Agent Responsibilities**

1. Individual record keeping is a must for courtroom testimony. GET deputies should have a basic knowledge of the elements of various gang related crimes. The specter of a Voir Dire examination should not be cause for concern if the deputy has maintained documentation of his/her training in all areas of gang activity, including schools, seminars and personal experience gained in these investigations.
2. If a gang investigation is undertaken, the deputy will obtain either an internal record keeping number, commonly referred to as an "IFN" number, or a Sheriff's Department records system number, commonly referred to as a "DR" number. The gang deputy will write a crime report with a DR number on the appropriate Sheriff's Department forms for all criminal violations.

3. The GET deputy will be responsible for the maintenance of all working files, the neat and orderly appearance of files and the security of all files during the course of all investigations.
4. The GET deputy will receive advanced funds from Sheriff's Special Funds. These monies are to be used only for the purpose of operational expenses and for program maintenance directly associated to a case. These funds are not to be used for personal reasons and should not be commingled with personal moneys. The GET deputy will be assigned an expenditure book. This book will be used for the recordation of all Sheriff Special Funds expenditures. These funds may be audited at different times throughout the fiscal year. Expenditure records will be kept for five (5) years.

**C. Suppression Patrol**

1. GET personnel are responsible for actively patrolling areas frequented by gang members or associates in their assigned area. The purpose of suppression patrol is to arrest gang members in violation of the law, prevent gang related criminal activity and to maintain a degree of familiarity with known gang members and their associates in order to gather updated and reliable intelligence that can be used to deter or solve future gang related criminal activity.
2. When not engaged in another assignment or administrative responsibilities such as report writing or courtroom testimony GET personnel should be involved in suppression patrol.

**D. Target Program**

The Orange County Sheriff's Department North GET team participates in a Tri-agency Resource Gang Enforcement Team (TARGET) program. TARGET is a cooperative arrangement between law enforcement, County Probation and the District Attorney's Office designed to more effectively identify, prosecute and monitor known gang members and associates. There is one (1) Probation officer, one (1) Deputy District Attorney, one (1) District Attorney's Investigator and six (6) Deputy Sheriffs assigned to the North GET team. Each member of this alliance has differing responsibilities.

1. Deputy Sheriffs – are responsible for the identifying, investigating and arresting individuals who participate in gangs and illegal gang activities and assisting in their criminal prosecution.

2. Deputy Probation Officers – are responsible for supervising “TARGET” gang members assigned to their caseload, and for assisting Deputy Sheriffs in identifying and arresting individuals who participate in gangs and illegal gang activities.
3. Deputy District Attorney – is responsible for the criminal prosecution of gang members and for providing legal advice when necessary during the course of gang related criminal investigations.
4. District Attorney’s Investigator – is responsible for assisting the Deputy District Attorney in the preparation for criminal prosecution of gang members and for assisting Deputy Sheriffs and Probation Officers in identifying, investigating and arresting individuals who participate in gangs and illegal gang activities.

The mutual cooperation that results in the blending of the tools, knowledge, skills and experience of all parties is imperative to make the TARGET concept successful.

**E. Probation Searches**

1. GET personnel work with County Probation personnel in the TARGET approach to gang suppression. GET personnel are responsible for assisting County Probation with probation contacts and searches on gang members and associates on the TARGET roster.
2. The purpose of these contacts and searches is to arrest gang members in violation of the law, prevent gang related criminal activity by gathering gang indicia and intelligence through the collection of gang rosters, photographs, weapons and contraband, and to maintain a degree of familiarity with known gang members and their associates in order to gather updated and reliable intelligence that can be used to deter or solve future gang related criminal activity.

**F. Gang Related Investigations**

GET personnel have knowledge, training and experience not immediately available to other investigative units within the Sheriff’s Department by virtue of their frequent contacts and established relationships with known gang members and associates. This knowledge is often instrumental in solving gang related criminal activity ranging from vandalism to homicide. GET personnel will assist Sheriff’s Investigators assigned to other details or authorized representatives from outside agencies whenever their assistance is requested regarding the follow-up investigation of a gang related crime.

**INVESTIGATIONS DIVISION  
SPECIAL INVESTIGATIONS BUREAU  
GANG ENFORCEMENT TEAM (GET)  
ORANGE COUNTY SHERIFF-CORONER DEPARTMENT**

**Section: 7-3**

**Subject: California Penal Code 186.34 Compliance**

**I. Introduction**

**A. Purpose**

It shall be the policy of the Gang Enforcement Team to be compliant with all requirements prescribed by CPC 186.34.

**B. Background**

The California Legislature amended the Street Terrorism Enforcement and Prevention Act (STEP) to include new provisions related to a subject's inclusion in a shared gang database, and the related statistical record keeping and reporting now required.

**C. Scope of Policy**

This policy applies to all Gang Enforcement personnel

**D. Accountability**

It is the responsibility of Gang Enforcement personnel to be aware of these changes to the STEP Act and to maintain compliance with its provisions and mandates.

**E. Training**

It is the responsibility of the unit supervisors to ensure that new personnel are familiar with the STEP Act, and to provide any relevant training to ensure compliance with its provisions and mandates.

## II. Compliance with Gang Database Inclusion

### A. Reason for Participation

The Gang Enforcement Team participates in a shared gang database with other law enforcement agencies because of the invaluable investigative resource that it is. A shared gang database can help solve crimes which have occurred, assist in targeted suppression, and ultimately lead to curtailing gang activity within the County of Orange.

### B. New Provision

Except as provided in Section II.C., it shall be the policy of the Gang Enforcement Team that **PRIOR** to designating a person as a suspected gang member, associate, or affiliate in a shared gang database, GET shall provide written notice to the person, and shall, if the person is under 18 years of age, provide written notice to the person and his or her parent or guardian, of the designation and the basis for the designation.

### C. Exception to the New Provision

In any case where it is determined that notification (as prescribed above) would compromise an active criminal investigation or compromise the health or safety of the minor, the GET personnel determining this exception applies shall request a Department Record (DR) # and document the basis for such an exception on a follow up form.

### D. Written Notification Requirements

The written notice to the person, and their parent/guardian, if applicable, shall describe the process for the person, his or her parent/guardian, or attorney working on behalf of the person to contest the designation of the person in the shared gang database. The notice shall also inform the person of the reason for his or her designation in the database. This written notice is the "Notification of Gang Database Inclusion" form. Two or more of the criteria on the form are to be checked as the basis for the designation.

**E. Supervisor's Response to Contested Inclusion**

If a person, their parent/guardian, if applicable, or an attorney working on behalf of the person, contests the person's designation and inclusion in the shared gang database, the appropriate GET supervisor shall respond within 30 calendar days of receipt of the written documentation. This response is to be on the "Supervisor's Response to Gang Database Inclusion Appeal" form.

- i. If it is determined that the person is not a suspected gang member, associate or affiliate, the GET supervisor will remove the person from the shared gang database and will respond that the person has been removed.
- ii. If it is determined that the person will not be removed from the shared gang database, the GET supervisor's response will include the reason for the denial. The supervisor will also briefly respond to the documentation submitted and explain why the documentation does not support the person's removal from the shared gang database.

**F. Requests for Information**

- i. Any person, his or her parent/guardian, if applicable, or an attorney working on behalf of the person may request, in writing, information from GET as to whether the person is designated as a suspected gang member, associate, or affiliate in a shared gang database accessible by GET and what law enforcement agency made the designation.
- ii. If a person about whom information is requested is designated as a suspected gang member, associate, or affiliate in a shared gang database by GET, the person making the request may also request information as to the basis for the designation for the purpose of contesting the designation.
- iii. These requests for information will be forwarded to the GET supervisor. The GET supervisor will respond to valid requests for information on Department letterhead within 30 calendar days of receipt of the request unless an exception described in Section II.C. applies. The GET supervisor determining this exception applies will request a Department Record (DR) # and document the basis for such an exception on a follow up form.
- iv. Subsequent to the GET supervisor's response to an information request, the person designated as a suspected gang member, associate or affiliate, his or her parent/guardian, if applicable, or attorney working on behalf of the person may submit written documentation contesting the designation. Upon receipt of the written documentation, the GET supervisor is to follow the process in Section E.



### III. Statistical Record Keeping

#### A. Statistical Record Keeping

GET shall maintain statistics that contain, by ZIP code, the referring agency (OCSD), race, gender, and age, the following information:

- i. the number of persons added to the database during the immediately preceding 12 months;
- ii. the number of requests for removal of information about a person from the database received during the immediately preceding 12 months;
- iii. the number of requests for removal which were granted during the immediately preceding 12 months;
- iv. the number of court petitions for removal of information about a person from the database pursuant to Penal Code section 186.35 adjudicated in the immediately preceding 12 months, including their dispositions;
- v. the number of persons whose information was removed from the database due to the expiration of a retention period during the immediately preceding 12 months;
- vi. the number of times OCSD did not provide notice or documentation described in Penal Code section 186.34 because providing that notice or documentation would compromise an active criminal investigation, in the immediately preceding 12 months; and
- vii. the number of times OCSD did not provide notice or documentation described in Penal Code section 186.34 because providing that notice or documentation would compromise the health or safety of the designated minor, in the immediately preceding 12 months.

**INVESTIGATIONS DIVISION  
SPECIAL INVESTIGATIONS BUREAU  
VICE UNIT  
ORANGE COUNTY SHERIFF-CORONER DEPARTMENT**

**SECTION: 8-1**

**SUBJECT: MISSION STATEMENT**

It will be the primary mission of the Orange County Sheriff's Department's Vice Unit to investigate vice activity in unincorporated county areas as well as cities contracting police services through the Sheriff's Department. Vice activity includes, but will not be limited to, street prostitution, massage parlor prostitution, escort service prostitution as found on the Internet, telephone books, classified ads or adult publications, acts of pimping and pandering, illegal gambling, bookmaking, illegal lotteries, endless chain or pyramid schemes, carnival fraud games, lewd conduct in public places, and pornography and be responsible for the collection and storage of vice criminal intelligence based on the criteria outlined in this Manual.

The Vice Unit also oversees aspects of the licensing process associated with massage parlors for all contract cities and unincorporated areas of Orange County.

At times the Vice Unit may be called upon to investigate crimes not associated with our primary mission due to the need for expertise in the area of undercover investigations.

**INVESTIGATIONS DIVISION  
SPECIAL INVESTIGATIONS BUREAU  
VICE UNIT  
ORANGE COUNTY SHERIFF-CORONER DEPARTMENT**

**SECTION: 8-2**

**SUBJECT: VICE INVESTIGATION CASES**

**I. INTRODUCTION**

**A. Purpose**

The purpose of this policy is to establish guidelines to assist investigators in conducting investigations of various vice activities.

**B. Background**

Vice investigations comprise a wide variety of investigative skills. The vice investigator may use both overt and covert techniques in vice related investigations and use of informants.

**C. Scope of Policy**

This policy applies to all vice investigative personnel.

**D. Accountability**

It is the responsibility of vice personnel to be aware of these guidelines to help assist in the investigation of vice related cases.

**E. Training**

It is the responsibility of the unit supervisors to ensure that new personnel are familiar with the investigative guidelines concerning various types of vice investigations.

**II. POLICY GUIDELINES**

**A. Case Agent**

1. Each case will be assigned a vice investigator who will be the "case agent." The case agent is responsible for the planning and execution of the goals for each investigation. The case agent will ensure that the vice supervisor is updated on all cases undertaken. At the conclusion of the

investigation, the case agent will make certain that all reports have been written and submitted throughout the appropriate systems.

2. The case agent will act as a liaison with the prosecuting agency and be responsible for all matters necessary for a successful prosecution. The case agent will ensure that all discovery items are prepared and delivered to the prosecuting agency. The case agent will not discover any evidentiary material or reports to any other attorney or police agency, without prior permission of the prosecuting attorney and the vice supervisor.
3. The case agent will never undertake a dual role as an undercover operator while engaged as the case agent.
4. The case agent will, at times, find it necessary to utilize the services of a "co-case agent." The case agent is, nevertheless, accountable for the successful conclusion of all investigations undertaken and the integrity of the case.
5. The case agent will be accountable for all monies expended during investigations, including those funds expended by other officers or informants.

**B. Case Agent Responsibilities**

1. Individual record keeping is a must for courtroom testimony. Vice investigators should have a basic knowledge of the elements of various vice related crimes. The specter of a Voir Dire examination should not be cause for concern if the investigator has maintained documentation of his/her training in all areas of vice, including schools, seminars and personal experience gained in these investigations.
2. If a vice investigation is undertaken, the investigator will obtain either an internal record keeping number, commonly referred to as an "IFN" number, or a Sheriff's Department records system number, commonly referred to as a "DR" number. The vice investigator will write a crime report with a DR number on the appropriate Sheriff's Department forms for all criminal violations.
3. The vice investigator will be responsible for the maintenance of all working files, the neat and orderly appearance of files and the security of all files during the course of all investigations.

4. The vice investigator will receive advanced funds from Sheriff's Special Funds. These monies are to be used only for the purpose of operational expenses and for program maintenance directly associated to a case. These funds are not to be used for personal reasons and should not be commingled with personal monies. The vice investigator will be assigned an expenditure book. This book will be used for the recordation of all Sheriff Special Funds expenditures. These funds may be audited at different times throughout the fiscal year. Expenditure records will be kept for five (5) years.

**C. Street Prostitution Investigations**

1. Street prostitution typically will be the most visible type of prostitution cases investigated by the vice unit. Street prostitution if left unchecked can have a serious secondary effect on the community. These effects include depreciation of property values, increases in crime, litter, noise and vandalism. Heavy prostitution activity in a small area of the community can lead to the closure of nearby businesses due to the increase in criminal activity and the reluctance on the part of people to traverse areas frequented by prostitutes and associated pimps.
2. Our enforcement stance toward street prostitution will be aggressive, using undercover operators whenever feasible. It will be the responsibility of the vice unit to monitor the presence of street prostitution and take appropriate action to address the problem.
3. Vice investigators working street prostitutes will work with at least two other partners. One investigator will work in an undercover capacity attempting to obtain a solicitation for prostitution while the second two investigators will provide security for the first investigator.
4. Investigators will be mindful of the dangers posed by street prostitutes including possession of dangerous weapons, drugs, and/or needles, and the use of counter surveillance techniques. Street prostitutes may also use the services of a pimp and/or other prostitutes in their attempts to rob a client or evade arrest.

**D. Escort Service/Out Call Prostitution**

1. It is well documented that the illicit proceeds from prostitution activity is a major funding for organized crime syndicates and gangs operating both within the United States and overseas. Investigators assigned to the Vice Detail will understand the various media used by prostitutes to advertise

for new clients. These media include such generic publications such as local newspapers and phone books. Vice investigators will continuously scan adult publications unique to Orange County as well as publications unique to surrounding Counties for advertisements, which would appear, based on training and experience, to be advertisements placed by subjects wishing to engage in acts of prostitution.

2. It has become obvious that Escort prostitutes have kept pace with the technology associated with the Internet. The Vice Detail will monitor web sites known to be used by Escort prostitutes in the placement of advertisements for new clients.
3. All efforts will be made to investigate illegal escort services and bring to justice those responsible for the pimping and pandering of prostitutes. Escort-service investigations will utilize undercover operations, surveillances, search warrants and other approved methods for the apprehension of parties operating illegal escort services.
4. Although our focus will be primarily on Orange County, it is well known that Escort Prostitutes will cross from one County to another in search of clients. If it appears through investigation that prostitutes from an adjacent Counties will provide services to clients in Orange County, the vice investigator may conduct an appropriate undercover operation in an attempt to prevent further criminal conduct within our County.
5. If it becomes known that an escort service operating in an adjacent county is providing prostitutes to clients in Orange County, a criminal case may be initiated against the Escort service.
6. Although escort services and the prostitutes engaged in escort services typically do not operate in view of the public, the vice detail recognizes the danger of not monitoring this criminal enterprise. The vice detail is aware that, left unchecked, escort prostitution crimes can, and have in the past, lead to the commission of additional other crimes including violent crimes against both the prostitute and the client.
7. While working an escort prostitution case, all efforts will be made to record the conversation between the undercover vice officer and the prostitute. Security for the undercover officer will typically require at least two additional investigators who will be armed during the time they are providing security.

**E. Massage Parlor Investigations**

1. While we recognize that many massage parlors conduct business in a safe, clean and lawful manner, we also are aware that other establishments are merely fronts for prostitution. It is also well known that organized crime syndicates have entrenched themselves in the massage parlor business. While all massage parlors in the Sheriff's jurisdiction should be monitored periodically, those run as illegal brothels will be investigated vigorously.
2. Vice investigators will conduct undercover investigations into massage parlors suspected of being involved in illegal prostitution activity. When violations of law are discovered, a case file will be opened.
3. Two investigators will work together in undercover massage parlor investigations. One investigator will monitor the activity of the undercover officer by way of a transmitter and receiving device (Surveillance Kit), if an immediate arrest is anticipated.
4. Although experience has shown that prostitutes operating in a massage parlor typically will not talk about sex acts, the undercover operator will make all efforts to verbalize a solicitation between the employee giving the massage and him.
5. Experience and the very nature of the act of massages, suggests that an undercover operator will likely be required to remove some or all of his clothing during the course of the massage. In the event that the employee giving the massage begins to massage the genital region of the undercover operator, the undercover operator will immediately take the necessary steps to terminate any further sexual contact.
6. While incidental touching has been generally accepted as necessary to continue in the role of a willing and interested customer, continued touching of a sexual nature is not allowed and shall immediately be terminated.
7. Undercover investigators will attempt to identify all parties involved in the illegal activity and if possible obtain multiple criminal violations from each participant.
8. Every effort will be made to ensure the integrity of the undercover officer's identity. Deputies or investigators from other details will

conduct the physical arrest of all suspects in a massage parlor investigation whenever possible.

9. When appropriate, search warrants may be obtained so evidence such as condoms and cash will not be lost. Other information connecting the massage parlor to organized crime will be seized as well.
10. Subsequent to a search warrant being executed, the investigator may ask the court for an order to remain in the business and conduct business using undercover decoy female deputies.

## **F. Gambling**

The Orange County Sheriff's Department Vice Detail is responsible for investigating illegal gambling activities. In addition, the Vice Detail will ensure those individuals or organizations that host bingo games or charitable raffles meet the requirements set forth by the State of California and the County of Orange.

1. California Penal Code sections 330 through 337 address gambling violations. An activity must be classified as gambling if the three following conditions are present:
  - a. Money or any consideration is required to participate.
  - b. There is the ability to win some type of prize or other consideration.
  - c. The ability to win is based on chance alone.
2. Lotteries, such as sports pools, Las Vegas Nights, and "Raffles" are common areas of concern or complaint to the vice unit. To avoid the classification of a "lottery", distributors of raffle tickets can accept donations but cannot require a set price or require a purchase to participate in any game. (California Penal Codes Sections 319-326)
  - a. Charitable Raffles – California Penal Code Section 320.5
    - (1) Must be conducted by an eligible organization.
    - (2) For the purpose of directly supporting beneficial or charitable purposes or financially supporting another private, nonprofit, eligible organization that perform beneficial or charitable purposes.
3. Bookmaking Investigations - A bookmaker is one who determines odds and receives and pays off bets. The vice unit will investigate illegal



betting and bookmakers as a part of their normal responsibilities. (California Penal Code 337a)

4. Endless Chain - Also known as a Pyramid scheme, is a ploy developed wherein money or other consideration is “invested” or paid to another individual for the chance to receive compensation for introducing one or more additional persons into participation in the scheme.

The vice unit will investigate these types of crimes when appropriate. (California Penal Code Section 327)

5. **Bingo Games**

- a. Allowed under California Penal Code Section 326.5.
- b. The Orange County Codified Ordinances permit the playing of Bingo games.
  - (1) Title 3: Public Morals, Safety and Welfare, Division 5: Gambling, Article 2: Games of Chance, Section 3-5-18.
  - (2) Title 3: Public Morals, Safety and Welfare, Division 10: Charitable or Philanthropic Solicitation, Article 2: Bingo Games Allowed, Section 3-10-30.
- c. The Orange County Codified Ordinances set forth the requirements to operate Bingo games.
  - (1) Title 5: Business and Special Licenses, Regulations, Division 1: General, Article 2: License or Permits Required, Section 5-1-29(c), Bingo games.
  - (2) Title 5: Business and Special Licenses, Regulations, Division 3: Specific Additional License or Permit Requirements and Business Regulations.

**G. Carnival Games**

The Orange County Sheriff’s Department’s Vice Detail is responsible for investigation and inspections of the carnival games at the Orange County Fair. This yearly event brings in Carnival Midway Operators of various carnival games of skill or chance.

1. Investigations
  - a. Overt – conduct a walkthrough of the midway to look for potential problems or obvious violations.

- b. Covert – undercover investigation where an attempt is made to determine which booths are “gaffed” (rigged to cheat customers). Most gaffs use non-mechanical means at the whim of the booth operator. This can usually be corrected by a sign advising customers of certain rights or game requirements.

If a mechanical gaff is found (which only purpose to make the game impossible to win), the booth should be shut down, the equipment photographed and seized as evidence and the booth operator cited or booked under the appropriate section of 334 P.C.

2. Section 334 P.C.

- a. Section 334 requires a victim of the crime.
  - (1) A Peace Officer cannot be the victim.
  - (2) Watch for a potential victim. After he loses, make contact, interview and obtain his name.
  - (3) Check the game – if it is rigged, then you have a victim and a case.
- b. Miscellaneous
  - (1) Skill is the key question and the game must require more skill than luck.
  - (2) Investigating officers should always ascertain that any prizes displayed are actually capable of being won. They cannot be hung as a “come on” and not be available to win by a customer.

3. Enforcement Guide

When looking for rigged games, look for the concessions that have the largest prizes. The following may be used as a guide for the Penal Code sections and games found most at carnivals and fairs.

- a. 334 P.C.: Use of Hidden Devices
- b. 334 P.C.: Carnival Schemes
- c. Section 332 P.C.: Winning by Fraudulent Means
- d. Section 332 P.C.: Carnival Schemes

- e. Section 319 P.C.: Lottery
- f. Section 319 P.C.: Carnival Schemes
- g. Section 330a P.C.: Slot Machines
- h. Section 330a P.C.: Carnival Schemes
- i. Section 532 P.C.: False Pretenses
- j. Section 532 P.C.: Carnival Schemes
- k. Miscellaneous

This list of games and violations are only offered as a guide. Do not be lulled into the false thought that it is all-inclusive. Carnival Bunco is only limited by the operator's skill and ability, and the effectiveness of the local law enforcement officials.

Other miscellaneous Penal Code Sections possibly encountered by officials enforcing Carnival Bunco are Section 67 P.C. (giving or offering bribes to executive officers); Section 71 P.C. (threat of injury to prevent performance of duties); Section 69 P.C. and Section 148 P.C. (resisting and interfering with officers); Section 504 P.C. (embezzlement). Most carnivals enter into a contract giving the local agencies a certain percentage of the take on the rides, etc. During the height of the busy hours, the carnival operators will have their ticket sellers selling special rolls of tickets other than the numbered tickets provided by the local agency, thereby defrauding that agency out of its percentages.

## **H. Licensing**

1. The vice unit will be responsible to review all business license applications for massage technician and massage therapist operating in Sheriff's jurisdiction or in cities contracting police services through the Sheriff's Department. Investigators will confirm the applicant has the proper number of massage therapy training hours required by the respective city/county ordinance in which the application is made. All efforts will be made to confirm the massage school listed in the application is certified by the State of California.
2. The vice unit will verify the applicant or the business is not currently under investigation for vice related crimes.

**INVESTIGATIONS DIVISION  
SPECIAL INVESTIGATIONS BUREAU  
NARCOTICS UNIT  
ORANGE COUNTY SHERIFF-CORONER DEPARTMENT**

**SECTION: 9-1:**

**SUBJECT: MISSION STATEMENT**

It will be the primary mission of the Orange County Sheriff's Department's Narcotic units to investigate narcotics activity and aggressively pursue narcotics violators in unincorporated county areas, as well as, cities contracting police services through the Sheriff's Department and at the John Wayne Airport.

The narcotic units will be proactive in conducting investigations involving the sale, manufacturing and distribution of narcotics, specifically at the street level.

**INVESTIGATIONS DIVISION  
SPECIAL INVESTIGATIONS BUREAU  
NARCOTICS UNIT  
ORANGE COUNTY SHERIFF-CORONER DEPARTMENT**

**SECTION: 9-2**

**SUBJECT: NARCOTICS INVESTIGATION CASES**

**I. INTRODUCTION**

**A. Purpose**

The purpose of this policy is to establish guidelines to assist investigators in conducting investigations of various narcotic activities.

**B. Background**

Narcotics investigations are, by nature, sensitive areas of police work. Protection of sources of information and managing information about areas of narcotics/drug related activity is absolutely essential. Narcotics investigators are expected to exercise discretion at all times outside of the Narcotics Detail. Dissemination of information should be done on a need-to-know basis. This includes the sharing of information with other police agencies, prosecutors, attorneys, judicial staff, and within our own Department.

**C. Scope of Policy**

This policy applies to all narcotics investigative personnel.

**D. Accountability**

It is the responsibility of narcotics personnel to be aware of these guidelines to help assist in the investigation of narcotic related cases.

**E. Training**

It is the responsibility of the unit supervisors to ensure that new personnel are familiar with the investigative guidelines concerning various types of narcotics investigations.

## II. POLICY GUIDELINES

### A. Case Agent

1. Each case will be assigned a narcotics investigator who will be the "case agent." The case agent is responsible for the planning and execution of the goals for each investigation. The case agent will ensure that the narcotics supervisor is updated on all cases undertaken. At the conclusion of the investigation, the case agent will make certain that all reports have been written and submitted throughout the appropriate systems.
2. The case agent will act as a liaison with the prosecuting agency and be responsible for all matters necessary for a successful prosecution. The case agent will ensure that all discovery items are prepared and delivered to the prosecuting agency. The case agent will not discover any evidentiary material or reports to any other attorney or police agency, without prior permission of the prosecuting attorney and the narcotics supervisor.
3. The case agent will never undertake a dual role as an undercover operator while engaged as the case agent.
4. The case agent will, at times, find it necessary to utilize the services of a "co-case agent." The case agent is, nevertheless, accountable for the successful conclusion of all investigations undertaken and the integrity of the case.
5. The case agent will be accountable for all moneys expended during investigations, including those funds expended by other officers or informants.

### B. Case Agent Responsibilities

1. Individual record keeping is a must for courtroom testimony. Narcotics investigators who conduct examinations on subjects believed to be under the influence of a controlled substance or to verify recent use can expect to be subpoenaed and testify in court. The specter of a Voir Dire examination should not be cause for concern if the investigator has maintained documentation of his/her training in all areas of narcotics, including the examination of persons under the influence of a narcotic or drug.

2. If a narcotics investigation is undertaken, the investigator will obtain either an internal record keeping number, commonly referred to as an "IFN" number, or a Sheriff's Department records system number, commonly referred to as a "DR" number. The narcotics investigator will write a crime report with a DR number on the appropriate Sheriff's Department forms for all criminal violations.
3. The narcotics investigator will be responsible for the maintenance of all working files, the neat and orderly appearance of files and the security of all files during the course of all investigations.
4. The narcotics investigator will receive advanced funds from Sheriff's Special Funds. These monies are to be used only for the purpose of contraband purchases, operational expenses and for program maintenance directly associated to a case. These funds are not to be used for personal reasons and should not be co-mingled with personal monies. The narcotics investigator will be assigned an expenditure book. This book will be used for the recordation of all Special Funds expenditures. These funds may be audited at different times throughout the fiscal year. Expenditure records will be kept for five (5) years.

**C. Possession Cases**

1. Investigator's Duties:
  - a. Receive, evaluate and record information from:
    - 1) Suspects.
    - 2) Citizens.
    - 3) Patrol deputies and other investigative details.
    - 4) Other law enforcement agencies.
    - 5) Informants.
    - 6) Probation/Parole departments.
    - 7) Personal observation.
  - b. Conduct surveillance
    - 1) Record suspect activities
      - a) Using photographic equipment when feasible.
      - b) Using vehicles suitable for undercover operations.
    - 2) Record sufficient observations for an affidavit in support of a search warrant.
  - c. When appropriate, obtain a search warrant and execute it.

- d. Collect, log and analyze evidence.
- e. Process criminal complaint(s) against the suspect(s) as required.

**D. Influence Examinations**

1. It is the responsibility of the narcotics investigator to at least become qualified as a Drug Abuse Recognition (DAR) expert. The narcotics investigator may seek to advance his/her expertise and become qualified as a Drug Recognition Expert (DRE). It is further incumbent on the investigator to obtain the DRE recertification every two years.
2. Narcotics investigators are responsible for conducting examinations of persons arrested on suspicion of being under the influence of narcotics or drugs, or to document recent use. Investigators perform these examinations if requested by sheriff's patrol and investigation, and/or outside police agencies.
3. Narcotics investigators should:
  - a. Measure pupil size and reaction.
  - b. Identify and chart injection sites.
  - c. Note other obvious physical symptoms.
  - d. Conduct sobriety tests.
  - e. Interrogate subject(s).
  - f. Arrange and assist with collection and analysis of a blood sample.
  - g. Write reports.
  - h. Obtain criminal complaints when necessary.
  - i. Testify as an expert witness in court.



**INVESTIGATIONS DIVISION  
SPECIAL INVESTIGATIONS BUREAU  
NARCOTICS UNIT  
ORANGE COUNTY SHERIFF-CORONER DEPARTMENT**

**SECTION: 9-3**

**SUBJECT: CLANDESTINE LABORATORIES**

**I. CONCEPTS AND ISSUES**

**A. Purpose**

The purpose of this document is to ensure that all narcotics personnel are thoroughly familiar with handling clandestine labs and any other hazardous materials situation associated with narcotics investigations.

**B. Background**

One of the major problems facing personnel assigned to Narcotics Units over the last several years is the ever increasing frequency of illegal clandestine labs and other hazardous materials situations encountered while conducting narcotics investigations. These include methamphetamine production labs as well as THC extraction labs.

**C. Scope of Policy**

This policy applies to all Special Investigations Bureau personnel and is to help ensure the safety of bureau personnel encountering illegal labs and other hazardous materials during their investigations.

**D. Accountability**

It is the responsibility of all Bureau personnel to be aware of this policy and adhere to it. Unit supervisors shall be responsible to ensure their subordinates follow the procedures in the field to ensure the safety of their command and the safety of the public.

**E. Training**

Familiarization with this policy will be included in the training process of new Bureau personnel.

## II. POLICY

### A. Clandestine Lab and Hazardous Materials Recognition

Narcotics Bureau personnel shall be familiar with and be able to recognize the various apparatus and materials associated with clandestine labs and hazardous materials situations. This recognition must take place from a safe distance that can only be determined at each individual situation.

In some cases, the recognition of a hazardous situation may be determined from information received from personnel (patrol deputies, neighbors, suspects, etc.), already at the scene. The recognition does not have to be “sight” recognition unless that can be accomplished from a safe environment.

In some instances, Narcotics Bureau personnel will discover on scene that a clandestine lab or hazardous materials situation exists. In these instances, Narcotics unit personnel will ensure no person(s) remain inside the premises and they shall immediately vacate and secure the premises, establish a safe zone, and notify the local fire department and the Clandestine Lab Team, housed in RNSP. An inquiry of the location and/or suspects with LA CLEAR should be initiated in an effort to determine if there is an ongoing investigation.

If additional information is requested by the supervisor of the Clandestine Lab Team, it may only be obtained from trained personnel (Fire Department personnel with Self Contained Breathing Apparatus (SCBA) equipment), who can enter the scene. These personnel can take digital or video pictures for the investigator to review and relay to the Clan. Lab Team. **Special Investigations Bureau personnel shall not enter a known clandestine lab site until it is deemed safe.**

#### Notifications:

1. RNSP/ Clandestine Lab Team
2. Orange County Clandestine Laboratory Emergency Action Network (OCCLEAN)

### B. Search Warrants at Known Clandestine Labs

When information is received about a **KNOWN** clandestine lab or hazardous materials situation, and that information results in the preparation of a search warrant, the search warrant **will only** be served by members of a team which is trained and outfitted with the approved SCBA safety gear (RNSP). It will be the responsibility of the Clan. Lab Team to make the entry, detain any suspect(s), and conduct a preliminary investigation regarding the information contained in the search warrant. The overall handling of the investigation and subsequent

prosecution remains with the Narcotics Unit investigator assigned to handle the investigation unless the investigation is turned over to the lab team.

**C. Clandestine Lab and Hazardous Materials Investigations**

The primary investigative unit for clandestine Labs is the Clandestine Lab Team which operates out of RNSP.

In instances where the investigator has developed the information, the overall investigation at a clandestine lab or hazardous materials dump rests with the handling investigator. During these investigations the handling investigator will be assisted by a variety of personnel associated with the collection of evidence, subsequent clean up and disposal of a clandestine lab or hazardous materials dump.

The Orange County Clandestine Laboratory Emergency Action Network (OCCLEAN) should be contacted to assist. As part of the OCCLEAN response the following agencies will participate:

1. The local fire department should be requested to respond to the scene in order to identify any potential hazards to law enforcement personnel or the community.
2. The Clan. Lab Team and Sheriff's Bomb Squad shall be notified and will respond to the site. Personnel from the Clan. Lab Team and/or Bomb Squad will subsequently enter the scene, make an assessment, remove materials that will be deemed evidence for the case, and prepare their report and inventory relative to their investigation.
3. The Orange County Fire Authority along with Anaheim Fire and/or Huntington Beach Fire Haz Mat Team will respond to deal with any environmental issues or hazards. The Haz Mat Team is responsible for notifying a private disposal company who will respond to remove all of the materials associated with the clandestine lab or hazardous materials dump.
4. Personnel from the OC Crime Lab and Orange County Health Department will also respond to the scene and assist the Clan. Lab Team investigators with the identification and collection of evidence and samples for future analysis. Scientific Services investigators will also prepare a supplemental report(s) indicating their observations and findings.
5. The contracted clean up or Disposal Company will respond and remove any/ and all hazardous materials associated with the investigation.

6. The handling investigator and at least one other sworn member will remain on scene until the investigation is complete. At no time should a Narcotics Bureau investigator be left at the scene of a clandestine lab or hazardous materials dump alone.

**D. Safety Considerations**

1. No smoking, eating, or drinking in the area.
2. Do not turn light switches on or off.
3. Do not attempt to turn off operating equipment.
4. Leave the scene as found. If doors are open, leave them open.
5. Be aware that a spark from a gunshot could cause an explosion.
6. Wash your hands thoroughly upon leaving the suspected scene.
7. **Above all other considerations, Investigators and supervisors will consider the safety of the general public when determining the course action in a lab investigation.**

**INVESTIGATIONS DIVISION  
SPECIAL INVESTIGATIONS BUREAU  
NARCOTICS UNIT  
ORANGE COUNTY SHERIFF-CORONER DEPARTMENT**

**SECTION: 9-4**

**SUBJECT: NARCOTIC DETECTING CANINE PROGRAM**

**I. PURPOSE**

Narcotics detection canines are an extremely effective tool in narcotics investigations.

Used within the boundaries set by the courts, they can be beneficial in the discovery of illegal substances and aid in the prosecution of those subjects involved in narcotics activity. The Orange County Sheriff's Department Special Investigations Bureau Narcotics Canine Program is composed of five narcotics detecting canines and their handlers that are assigned to North Narcotics, South Narcotics, and the Highway Interdiction Team (HIT).

The Special Investigations Bureau narcotic detecting canines are available not only for Sheriff's Department investigations but for all law enforcement and government agencies. Requests will be authorized and handled by the unit supervisor.

**II. POLICY**

It is the policy of the Special Investigations Bureau of the Orange County Sheriff's Department to provide specific guidelines for the selection, use and deployment, and training of Bureau Narcotics Detecting Canines.

**III. PROCEDURES**

The following specifications will be utilized in the selection of narcotic detection dogs for the Special Investigations Bureau Narcotics Unit Canine Program:

**A. Canine Selection Criteria**

1. Belgian Malinois, Labrador Retriever, or other suitable working breeds, 1-1/2 to 2-1/2 years of age.
2. The dog must be in excellent health with a full medical certification from a licensed veterinarian, including X-rays showing no hip dysplasia.
3. The canine must be guaranteed to have a sound temperament and disposition suitable for narcotics detection work with psychological

characteristics suitable for normal urban deployment including public relations activities.

4. A written unconditional guarantee of 3 years on the canine's performance and a 2-year guarantee against hip dysplasia is required.
5. Training records and medical records, including hip X-rays, must accompany the dog at the time of delivery.

**B. Canine Pre-Service Training Requirements**

This section sets forth the training requirements for a Narcotic Detection Canine prior to the dog being placed into field service with a Handler. These requirements apply whether the dog is trained by a vendor-trainer or by Bureau personnel.

1. The dog must receive and be proficient in basic obedience training. This includes, but is not limited to the commands of sit, down, stay, and heel, which should be able to be performed both on and off leash.
2. The dog must have received a minimum of 200 hours of narcotics detection training. During this training, no pseudo narcotics may be utilized at any time during the training. The dog must be able to detect the odors of marijuana, cocaine, heroin, and methamphetamine, and give an aggressive or passive alert upon finding these substances.
3. During pre-service training, the dog should be exposed to a wide variety of search environments which replicate actual field search conditions. This includes, but is not limited to searches of vehicles, residences, commercial buildings, storage facilities, luggage, parcels, and open field areas.
4. Training in narcotic detection should also include varied amounts of the substances. In terms of quantity, the dog should be able to detect identifiable residue, and then demonstrate success at various amounts up to multi kilograms. The dog must show proficiency in detecting substances at various heights from ground level to 6 feet high. Detection of buried narcotics is also very desirable.
5. The Canine Team must be certified annually by an official of the California Narcotics Canine Association.

**C. Canine Handlers**

Bureau Canine Handlers shall be responsible for the care, training and work performance of their canine assigned to them. These duties and responsibilities include:

1. Provide a proper environment for the dog at the Handler's residence.
2. Conduct searches for narcotics or narcotics related items as requested.
3. Conduct, at a minimum, weekly training to maintain proficiency of the dog.
4. Provide for the veterinary care necessary to maintain the health of the dog.
5. Respond to afterhours calls for service per current Unit policy.
6. Establish working relationships with narcotics canine personnel in other law enforcement agencies.
7. Conduct narcotics investigations and assist other unit personnel.
8. Ensure yearly re-certification of canine in narcotics detection following the California Narcotics Canine Association (CNCA) guidelines.
9. Maintain up to date records of canine training, performance and expenditures.

**D. Certification and Training**

1. The canine must be certified following the California Narcotics Canine Association (CNCA) requirements upon completion of initial training and must be certified annually by an official of the CNCA.
2. In-Service Training – The in-service training program for Narcotics Bureau canines and their handlers is an on-going training process designed to maintain the Canine Team at optimum proficiency. In-Service training may be accomplished by the following means:
  - a. Individual Team Training - Each Canine Handler is expected to train with his dog a minimum of four hours weekly. This training includes not only detection training, but also exercising and playing with the dog in order to keep the dog motivated.
  - b. Department Level Training - All Narcotic Canine Teams may train together as designated by the OCS D K-9 Sergeant. At this training, Bureau Canine Teams may take advantage of the narcotics search curriculum offered by the OCS D K-9 training schedule.
  - c. Other Agency or Vendor Training - This training will encompass training with other law enforcement/military agencies or with

professional dog trainers as arranged by the SIB canine handlers. Individual handlers must receive approval from the Narcotic unit sergeant prior to arranging or engaging in training with members of other law enforcement agencies or with professional dog trainers. Canine handlers may also attend various seminars and continuing professional training (CPT) courses as appropriate.

- d. Canine Trial Competition - Narcotic Canine Handlers are encouraged to participate in various canine trial competitions that are held throughout the state. The purpose of this training is to allow our dog handlers to interact with Narcotic Canine Handlers from other agencies and to observe the dog handling techniques of other handlers. This also provides handlers with the opportunity to interact with professional trainers and to receive evaluations on their handling techniques. Handlers who desire to participate in trials are to submit a Request for Training through the unit sergeant when the event is being held outside of Orange County County. Use of a County vehicle for transportation to such events outside of the County must be submitted through the unit sergeant for approval by the Special Investigations Bureau Lieutenant.

**E. Training Aids**

It shall be the policy of the Special Investigations Bureau Narcotics Canine Units, that actual narcotic substances be used in the training of dogs used for the detection of narcotics and narcotics related items. The narcotics obtained will be used exclusively for:

- 1. Training which gives the dog experience in finding the substance.
- 2. Providing the dog with scent awareness incidental to an actual search.
- 3. Canine handlers will follow the procedures set forth in the drug release policy detailed in Section 1-6, III – Procedures, in this manual to obtain the following narcotics substances and amounts.
  - a. Cocaine (powder) – 2 ounces
  - b. Heroin (tar) – 2 ounces
  - c. Marijuana – 2 ounces
  - d. MDMA – 2 ounces
  - e. Methamphetamine (Ice) – 2 ounces



- f. Opium – 2 ounces
4. The training aids shall remain in the custody of the handler until they are no longer usable. The handler is responsible to ensure their assigned training aids are adequately secure. These will be secured in the training aids case as described under equipment and secured in the handler's vehicle. They may remain in the vehicle if it is parked in the garage of the handler's residence. If not the training aids case must be secured in the handler's residence.
    - a. Damage to any of the packaging shall be brought to the unit sergeant's attention.
    - b. The unit sergeant will determine whether the particular training aid can be repackaged or turned in to evidence for destruction and another one issued.
  5. The unit sergeant will conduct yearly inspections of the training aids.
  6. Every two years all narcotics substance training aids will be returned to Sheriff's Property for verification by Sheriff's Forensics of weight and purity then returned to Sheriff's Property for destruction.

**F. Equipment**

Certain specialized equipment shall be issued to each Canine Handler. The handler shall be responsible for assuring that the equipment is properly maintained and in good working order or functions properly at all times. The following equipment shall be issued to each handler:

1. Portable training aid case. This case will be an airtight case ("Pelican" type) which includes glass jars and foam packing for safe and secure storage of training aids.
2. A padlock and chain will be provided to lock and secure the training aid case in the handler's assigned vehicle.
3. Suitable vehicle specifically modified for use in the Canine Program to include air conditioning, "chilly dog" with pager, a rear seat/area platform, a fan for air circulation and a front seat barrier if the vehicle is not constructed so that a barrier exists by design.
4. Canine first aid kit including drugs necessary for emergency treatment and a good quality insulated storage container for the first aid kit.
5. Canine handling equipment including muzzle, 6 foot leash, 15 foot leash, working collar, choke chain, and a retractable 30" leash.

6. Kennel with a padlock and chain and dog house for Deputy's residence.
7. Toys and chews for the dog.
8. Food and water dishes.
9. Current Bureau handheld radio, portable cell phone.

#### IV. OPERATIONS

##### A. Deployment

1. Use of Bureau narcotics detecting canines will be done with the approval of the unit sergeant.
2. Requests from outside agencies for Bureau canines will be made through the unit sergeant with approval from the SIB Lieutenant.
3. Narcotics detection canines, regardless of prior training or assignment, shall not be deployed for suspect apprehension or any other purpose outside of narcotics detection.

##### B. Utilization of Bureau Narcotics Detection Canines on School Campuses

**Note:** As of November 17, 2000, pursuant to the Attorney General's opinion, Narcotics Canines are no longer utilized to conduct random searches on school campuses.

Narcotics investigations on school campuses will be limited to specific narcotics criminal investigations with approval from the Special Investigations Bureau Lieutenant and Captain.

Any narcotics searches on school campuses should be in conjunction with a search warrant signed by a magistrate.

##### C. Unintentional Dog Bites or Injuries Caused by an SIB Canine

In the event of an unintentional bite or other injury caused by a narcotics canine, the unit supervisor will be immediately notified if not already on scene. For the purpose of this section a canine bite is any injury where there is break in the skin, however slight. The following steps should be taken:

1. Evaluate the injury of the person and ensure they receive prompt and appropriate medical attention.

2. Obtain photographs of the injury, if possible.
3. Obtain any statements from the injured person or any witnesses.
4. A Follow-Up report will be written by the handler detailing the circumstances of the injury.

Every unintentional bite or injury will be reviewed by the North Operations Canine Sergeant, as well as the Special Investigations Lieutenant. The Canine Sergeant will document his review and findings on a Department Memo. A copy of the follow-up report, photographs, and supervisors Department Memo will be maintained in the individual Narcotics Detection Canine's file in the North Narcotics Sergeant's office.

**D. Injured Handler**

In the event of injury to the handler where the handler is not able to maintain control of the canine, the following course of action should be considered by personnel to secure the canine.

If the handler is downed, his canine, in all probability, will stand guard and prevent anyone from approaching.

1. The dog and handler train and work together. The dog's attitude will change if the handler is hurt or in danger. He will become extremely protective of the handler.
2. DO NOT rush in on the handler or the dog.
3. Call the handler. If he/she can, he/she will call the dog off.
4. It is advisable to have several unit personnel become familiar with the canine by incorporating interaction between the dog and them during down times. If, in the event of the handler losing the capacity to control the dog, one of these unit personnel may be able to gain control and secure the dog.
5. Request the unit supervisor if not present and advise of the situation.
6. If control of the dog cannot be accomplished, request the assistance of County Animal Control, if time permits.
7. If time is critical, request the assistance of a Sheriff's Patrol canine officer or another city's canine officer immediately.

8. After the canine is secured, another handler or unit personnel will transport the dog to the injured officer's home.
9. In the event a canine is also injured, alert the dispatch/desk to contact the veterinarian and advise him of the emergency. Arrange for the dog to be transported to the veterinarian.

This also applies to instances in which the narcotics canine has been seriously injured while conducting narcotics searches.

**V. REPORTS**

**A. Canine Program Activity Reporting**

1. Narcotics Canine Handlers shall record work-related activities in their journal. Narcotics Canine Handlers shall also maintain statistical information on the number of searches, amount of illegal substances seized and amount of monies seized, as a result of the searches conducted.

**B. Follow-Up Reports**

The Bureau canine handlers shall be responsible for completing Follow-Up reports detailing the use of the narcotics detecting canine and the results of the search, which may include, a sketch of the area searched and where alerts were noted, and the results of a search of those areas alerted on.