



District Attorney's Office  
Wes Gray, Senior Investigator  
County of Lassen

## **CRIMINAL INVESTIGATOR DIRECTIVES**

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### INTRODUCTION

This manual of directives provides Investigation employees with guidelines to assist in the fulfillment of our mission and goals. The directives contained herein supplement existing policies and procedures implemented by the County of Lassen as well as the Lassen County District Attorney. This manual is a supplement to those existing policies and procedures. Investigation employees will refer to those policies and procedures for assistance or guidance in certain areas. For example, this manual does not contain policies and procedures for sexual harassment because employees should already be familiar with Lassen County's sexual harassment policy.

Investigation employees are expected and required to abide by all Lassen County policies and procedures, including those established by the District Attorney. This manual will be updated on a periodic, as-needed basis, and each employee is responsible for maintaining and updating their manual as revisions are published and distributed.



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County of Lassen  
Criminal Investigation's

Wes Gray, Senior  
Criminal Investigator

## INVESTIGATION DIRECTIVES

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## **1.0 General Duties, Responsibilities, and Guidelines**

### **1.1 Definitions**

As used in this manual, the following are defined as:

<b>Employee(s)</b>	Any member of the Criminal Investigation team
<b>Investigator(s)</b>	Senior Investigator, Criminal Investigator I and II

### **1.2 Principal Responsibilities**

The principal responsibility of the investigator is to investigate and report on any and all matters assigned by the District Attorney, Deputy District Attorneys or Senior Investigator. When an attorney initiates an investigation request, the assigned investigator will work closely with the requesting attorney. Written or oral reports should be provided to the requesting attorney, keeping the attorney apprised of the course and status of the investigation.

Employees must make all reasonable efforts to conform to the time restrictions placed upon an assignment. Should the employee be unable to complete the assigned investigation or particular job task prior to deadline, the employee will notify the assigned Deputy District Attorney (DDA).

Investigators will assist the requesting DDA in preparing the case for court. Preparation for court may include preparing clear and accurate reports, collecting and preserving evidence, serving subpoenas, locating and interviewing persons involved, transporting witnesses, providing security for victims or witnesses, arranging for witness lodging and meals, and other tasks necessary in preparing and facilitating the trial.

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

Investigators, when conducting investigations, must remember that their primary duty is to ascertain the truth with regard to the matter under investigation. The investigator should gather all facts available during an investigation including those that tend to vindicate the accused. Our office has a duty to disclose all exculpatory information.

All facts and information gathered, all interviews conducted, all observations made, and all evidence seized during the course of an investigation should be detailed in written investigation reports when necessary.

Should the investigator feel, at any time, that the assigned investigation has been compromised in any way, a detailed accounting should be made to the respective District Attorney.

Additionally, investigators may become aware of violations of the law or circumstances that warrant an investigation. The nature of these violations or circumstances should be presented to the assigned District Attorney. Investigators will not initiate and pursue investigations without the prior approval of the assigned District Attorney. No internal affairs investigation shall be commenced unless authorized by the District Attorney.

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

### **1.3 Availability While On Duty**

During normal working hours, it is the responsibility of employees to maintain contact with the office. While on duty, employees who are issued cell phones will be readily available and responsive to calls from the office. It is the responsibility of each employee to ensure his/her cell phone is in good working order and charged at all times.

### **1.4 Conflict of Interest**

When an employee or an immediate family member is either a victim or a defendant in a case that may be prosecuted or litigated in Lassen County, that employee will as soon as possible, notify the District Attorney.

Employees shall notify the District Attorney of any of the following occurrences:

1. An employee or an immediate family member is arrested in Lassen County;

2. An employee or immediate family member is a victim of a crime in Lassen County;
3. An employee or immediate family member is a witness to a crime in Lassen County or an employee or family member has been subpoenaed or otherwise notified that he or she is to be called as a witness in such a case, and such pending testimony is outside the normal scope and duties of the employee of the Investigation team.

The foregoing applies only to criminal offenses prosecuted in Lassen County. Criminal offenses include all felonies and misdemeanors specified in the penal code or other codes and include the traffic offenses of drunk driving, reckless driving, hit and run, and driving with a suspended license. Traffic infractions such as speeding, illegal turns, et cetera, are not included.

Immediate family member is defined as a father, mother, brother, sister, children and spouse or other persons who have assumed the role of any of the foregoing.

### **1.5 Outside Employment**

All Investigators will familiarize themselves with the Lassen County policy regarding outside employment. Employees shall not engage in any type of outside employment without the prior written permission of the District Attorney. The following types of outside employment are considered incompatible with respect to the District Attorney's Office:

1. Practice of private investigative, security work or consulting services regarding the same;
2. Any employment assisting in the defense of a criminal case;
3. Any employment where the employer engages in the defense of a criminal case;
4. Any employment with an employer charged with or under investigation for the commission of a criminal offense.

Prior to an employee engaging in any type of outside employment, that employee shall submit, a written request to the District Attorney seeking permission for that employment. The written

request shall identify the nature of the intended employment, the name and address of the intended employer, and the anticipated number of hours to be worked per week.

## **1.6 Threats (Duty to Warn)**

All Investigators will familiarize themselves with the Lassen County policy regarding Security and Safety.

Investigators who become aware of threats made toward another person will make all reasonable and practical attempts to notify that person of the existence and nature of that threat.

It is suggested that investigators take the following actions:

1. Immediately note the name, address, and telephone number of the party making the threat and the name of the potential victim;
2. Note the nature of the threat and the relationship of the parties;
3. Provide the above information, in writing, to the District Attorney;
4. The District Attorney or Senior Investigator will notify the police agency having jurisdiction and work with that agency to notify the threatened person (or the family in the event of a threat of suicide). The District Attorney's Office may provide security measures temporarily until the proper police agency is notified;
5. In the event a local police agency cannot be contacted, the District Attorney or Senior Investigator will be responsible for seeing that the person threatened is properly notified;
6. Threats of suicide will be made known to family members of the potential victim after the appropriate police agency has been notified.

The above procedure is applicable only where the victim may be unaware that the threat has been made or the victim is threatening suicide. The circumstances and subsequent action(s) taken by the investigator will be documented in a written report when necessary that will be forwarded as soon as practical to the District Attorney.

## **1.7 Contacts with Represented Defendants and Witnesses**

Employees will comply with California State Bar Rules of Professional Conduct (CRPC) Section 2-100, which governs the conduct of all attorneys and their agents in dealing with represented parties.

It is a violation of legal ethics for an attorney (prosecutor) or agent of an attorney (investigator, et cetera) to communicate directly or indirectly, with a suspect (defendant) whom the prosecutor knows is “represented by a lawyer” when the communication concerns the “subject of the representation” (criminal case) unless the attorney (prosecutor) has the consent of the defendant’s lawyer or the communication is “otherwise authorized by law.” CRPC 2-100 is therefore binding on District Attorney Employees.

This rule may overlap with a suspect’s Fifth or Sixth Amendment rights. But in cases where there are no Fifth or Sixth Amendment rights involved, the rule for District Attorney Investigators is different than for other law enforcement officers who are not functioning as the agent of a prosecuting attorney.

Generally speaking, a suspect/witness is not “represented by a lawyer” before a formal complaint or indictment is filed even if the suspect/witness has retained counsel, states he/she has a lawyer, or has a lawyer in a different case.

Communication with such a suspect/witness is allowed unless:

1. The charged crime is related to, or intertwined with the crime under investigation. Communication is prohibited unless initiated by the suspect/witness;
2. The suspect/witness anticipates leniency or some benefit in a separate charged case where the suspect/witness has a lawyer. Communication is prohibited even if initiated by the suspect/witness.

Case law interpreting CRPC 2-100 and similar rules is conflicting and confusing. In any situation where an investigator is dealing with a suspect/witness who has a lawyer, the Deputy District Attorney responsible for the case under investigation should be consulted prior to contacting or interviewing the suspect/witness.

## **1.8 Notification of Restraining Order**

When an employee is notified that a restraining order, an order for protection, or a harassment order has been filed against him or her, the employee shall immediately notify the District Attorney.

The employee shall provide the District Attorney with a copy of the order and the date scheduled for hearing the allegations made in support of the order. The information is required for compliance with Federal Law 18 U.S.C. section 922(g) (8). Under this law, if an order for protection, restraining order, or harassment order is entered against a sworn peace officer, he or she may not possess a firearm, even while on duty.

## **1.9 Equipment**

Employees are responsible for maintaining all assigned county equipment in good working order. In addition, investigators are responsible to carry or have readily available all assigned safety equipment, e.g., firearms, magazines, flashlight, ballistic vest, et cetera.

The misuse or abuse of county equipment is inappropriate and will not be tolerated. Missing or stolen safety equipment will be immediately reported, in writing, to the District Attorney and/or Program Coordinator.

## **1.10 Injured While on Duty**

When an employee is injured on duty, seeking medical attention shall be the first priority. Depending on the circumstances, the injured employee (or any uninjured investigator or other law enforcement personnel present at the scene) should make the assessment whether they can drive themselves to a medical facility or whether emergency personnel should respond to his or her location. After making that determination and as soon as is practical, notification should be made, by either the injured employee or by other law enforcement or medical personnel, to the District Attorney. The Senior Investigator or Program Coordinator will complete all necessary paperwork and forward it to the District Attorney.

## **1.11 Employee Evaluations**

All employees will receive a yearly evaluation in conjunction with their date of hire. The evaluation will address the following areas:

1. Quality of Work
2. Dependability
3. Job Attitude
4. Relationship Skills
5. Work Habits and Skills
6. Employees who Supervise

Each area will have a section for Comments, Conclusions and Recommendations by the supervisor completing the evaluation.

The employee will be required to sign the evaluation, which serves only as an acknowledgement that they received the evaluation (and any attachments) and have reviewed it with their Supervisor. The employee will have the right to respond to anything in the evaluation by completing a separate narrative, which will be attached to the evaluation form. The evaluation and any accompanying documents, including a response by the employee, will be retained in the employee's personnel file maintained by the District Attorney's Office.

## **2.0 Evidence**

All Investigators will familiarize themselves with the District Attorney's Policy regarding evidence.

### **2.1 Storage of Evidence and Property**

The District Attorney's Office maintains an evidence and property storage room at 2950 Riverside Dr., Suite 102. This room is a repository for evidence, found property, property for safekeeping, and property for destruction. It is critical to ensure every effort is made to maintain a proper chain of custody and to prevent property from being lost or misplaced.

### **2.2 Property Clerk Responsibilities**

The Senior Investigator will process property in and out of the evidence room. In the event the Senior Investigator is not available, the Program Coordinator will process property in and out of the evidence room. The Senior Investigator will oversee the Program Coordinator and ensure all storage procedures are followed.

### **2.3 Evidence Booking Procedure**

The following procedure will be used when booking evidence or property into the evidence room.

1. Complete a property form. Describe each item separately or attach an itemized list of described property from the original law enforcement agency property report.

2. If the property is small enough, place it inside a paper bag, envelope, or acceptable container for storage.
3. For evidence or property originating from the District Attorney's Office, proper evidence packaging procedures must be adhered to. Once the property has been packaged, the container must be sealed using tape or an "Evidence Seal" label. The person sealing the container will then initial and date across the edge of the seal with a permanent marker to ensure proper Chain of Custody.
4. Identify the container by attaching a completed property tag or label, or marking on the container itself (for envelopes, boxes, etc.). If the property is too large for a container, attach the tag or label directly to the property in a secure fashion.
5. Contact the Senior Investigator to book the property and issue a case number. The property log will specify the defendant's name, the case number, the date received, the deputy district attorney handling the case (if applicable), the storage location of the property, and the disposition of the property.
6. If the property was previously booked with a local outside law enforcement agency, the name of that agency and their property number must be written on the form. This will facilitate returning the evidence to the proper jurisdiction.
7. If the evidence did not come from a local outside agency, the victim or owner's name, address and telephone number must be written on the form (if applicable).
8. The DA storage location of the property will be recorded on the form. The original of the completed form will be stored in the property room.
9. In the event the Senior Investigator, Program Coordinator, and supervisors authorized to process evidence are absent (e.g., after hours or on weekends), a temporary evidence locker will be used. The Investigator is to utilize either the Lassen County Sheriff's Office or Susanville Police Departments evidence locker.

## **2.4 Removal of Property**

Any time evidence is removed from the evidence room, it must be signed out by the Senior Investigator via the Chain of Custody form on the property sheet. The person removing the property must note the items removed on the back of the original form and sign acknowledging receipt of the items. If the items are to be returned, the original form will be re-filed in the property room.

## **2.5 Additional Rules**

The following rules shall apply to the handling and storage of evidence and property at the Lassen County District Attorney's Office.

1. Firearms, explosives, toxic materials, narcotics, money and general evidence which a chain of custody must be maintained will not be stored in an employee's desk, file cabinet, or office.
2. Two people will book currency into the evidence room. The currency will be placed in an envelope with denominations listed on the outside. Each individual will verify the amount and denomination of the currency and sign the envelope. If the currency is sealed when obtained from another agency, and there is no need to break the seal, the currency will be stored and delivered to the court or Treasures Office in the original sealed condition.
3. Unauthorized individuals will not be allowed in the evidence rooms unless accompanied by authorized personnel.
4. Property to be viewed by attorneys, investigators, and others will be viewed outside the evidence room.
5. Property tags and/or labels shall be affixed properly to avoid misplacement.
6. Guns shall be unloaded and made safe before packaging and storage. Flex cuffs or similar items shall be placed through the cylinder or action to disable the weapons and act as a locking device for storage and use in court. Gun packaging and labeling shall otherwise conform to the procedures for normal packaging of property.

7. Hazardous Materials and Explosives shall not be stored in the Property Room or placed in the evidence locker without prior approval of the Senior Investigator.

### **3.0 Use of Force**

#### **Directive**

It shall be the directive that investigators will use only that amount of force which reasonably appears necessary, given the facts and circumstances as perceived by the investigator at the time of the incident.

#### **3.1 California Penal Code Section 835(a)**

Force shall be used in compliance with California Penal Code Section 835(a), which states, "Any peace officer who has reasonable cause to believe that the person to be arrested has committed a public offense may use reasonable force to effect the arrest, to prevent escape, or to overcome resistance. A peace officer who makes or attempts to make an arrest need not retreat or desist from his/her efforts by reason of resistance or threatened resistance of the person being arrested; nor shall such officer be deemed the aggressor or lose his/her right to self-defense by the use of reasonable force to effect the arrest or to prevent escape or to overcome resistance."

#### **3.2 Purpose and Scope**

This directive recognizes that the use of force by law enforcement requires constant evaluation. Even at its lowest level, the use of force is a serious responsibility. The purpose of this directive is to provide investigators with guidelines on the reasonable use of force. While there is no way to specify the exact amount or type of reasonable force to be applied in any situation, each investigator is expected to use these guidelines to make such decisions in a professional, impartial, and safe manner.

#### **3.3 Factors Used to Determine Reasonableness of Force**

When determining whether or not to apply any level of force and evaluating whether an investigator has used reasonable force, a number of factors should be taken into consideration. These factors include, but are not limited to:

1. The conduct of the individual being confronted as reasonably perceived by the investigator at the time;

2. Investigator/suspect factors (age, size, relative strength, skill level, injury/exhaustion and number of investigators versus number of suspects);
3. Influence of drugs, alcohol and/or mental capacity;
4. Proximity of weapons (real, perceived, or potential weapons);
5. Availability of other options (what resources are reasonably available to the investigator under the circumstances);
6. Seriousness of the suspected offense or reason for contact with the individual;
7. Training and experience of the investigator;
8. Potential for injury to citizens, investigators, and suspects;
9. Risk of escape;
10. Immediacy and severity of the threat to investigators or others;
11. Prior contacts with the subject or awareness of any propensity for violence;
12. Any other exigent circumstances.

It is recognized that investigators are expected to make split-second decisions and that the amount of time available to evaluate and respond to changing circumstances may impact the investigator's decision.

### **3.4 Non-Deadly Force Applications**

Any application of force that is not reasonably anticipated to result in death shall be considered non-deadly force. Each investigator is provided with equipment, training and skills to assist in the apprehension and control of suspects as well as protection of investigators and the public.

Given that no directive can realistically predict every possible situation an investigator might encounter in the field; it is recognized that each investigator must be entrusted with well-reasoned discretion in determining the appropriate use of force in each incident. While it is the ultimate objective of every law enforcement encounter to minimize injury to everyone involved, nothing in this directive requires an investigator actually sustain physical injury before applying reasonable force.

### **3.5 Deadly Force Applications**

Investigators may use deadly force to protect themselves or others from what they reasonably believe would be an immediate threat of death or serious bodily injury.

Investigators may use deadly force to stop a fleeing subject when the investigator has probable cause to believe that the person has committed, or intends to commit, a felony involving the infliction or threatened infliction of serious bodily injury or death, and the investigator reasonably believes that there is imminent risk of serious bodily injury or death to any person if the subject is not immediately apprehended. Under such circumstances, a verbal warning should precede the use of deadly force, where feasible.

Imminent does not mean immediate or instantaneous. An imminent danger may exist even if the subject is not at that very moment pointing a weapon at someone. For example, an imminent danger may exist if an investigator reasonably believes any of the following:

1. The person has a weapon or is attempting to access one and it is reasonable to believe the person intends to use it against the investigator or another.
2. The person is capable of causing serious bodily injury or death without a weapon and it is reasonable to believe the person intends to do so.

### **3.6 Use of Firearms**

This directive does not preclude an investigator from drawing a weapon in readiness during the course of an arrest or investigation when, in the investigator's opinion, it is necessary to ensure everyone's safety or reduce the possibility of attack or escape by a felony suspect.

### **3.7 Discharge of a Firearm**

Firearms may be discharged by the investigator in the performance of duty under the following conditions:

1. In the defense of the investigator's own life or to prevent serious bodily injury;
2. In the defense of another person's life or to prevent serious bodily injury;
3. At approved range training, as determined by a certified firearms instructor.

### **3.8 Medical Attention for Injuries Resulting from Use of Force**

Medical assistance shall be obtained for any person(s) who has sustained visible injury, expressed a complaint of pain, or who has been rendered unconscious.

### **3.9 Mandatory Reporting Procedure**

#### **Investigator Responsibilities**

Any reportable use of force shall require the immediate notification to the District Attorney.

The investigator shall write a detailed report of the incident to include a complete description of how and why the force was applied as well as a description of injuries that the suspect received or claims to have received. The completed report will be submitted to the District Attorney.

At the direction of the District Attorney or Senior Investigator, a thorough investigation into all firearm discharges will be conducted except those which occur during training. If the Senior Investigator is involved in the discharge of a firearm requiring an investigation, an assigned agency will conduct the investigation and report on the matter to the District Attorney.

### **3.10 Post-Shooting Protocol**

Any investigator involved or present in a high-risk incident, including the discharge of a firearm that results in the injury of any person may be required to participate in psychological counseling. An investigator involved in the discharge of a firearm that results in the injury to any person may be placed on administrative leave or restricted duty status during the administrative investigation.

## **4.0 Firearms**

Criminal Investigators are sworn peace officers pursuant to Penal Code Section 830.1. (a), and as such are expected to be armed while on duty. For purposes of this directive, investigators will be armed while outside their immediate office area.

### **4.1 Department Approved Weapons**

Only weapons approved by the District Attorney, or designee, can be carried on duty. The current duty issued handgun is the Sig Sauer. If an investigator chooses

to purchase and carry a different handgun, that weapon must meet the following requirements:

1. The caliber of the weapon must be one of the following: nine millimeter, .357 caliber, .40 caliber, or .45 caliber;
2. The weapon must be manufactured by one of the following companies: Beretta, Colt, Sig Sauer, Heckler and Koch, Smith and Wesson, Springfield, Para Ordinance, or Glock;
3. The weapon must be inspected and approved by a certified Rangemaster before it can be carried on duty;
4. The investigator must demonstrate proficiency with the weapon and pass a qualification course as directed by a Rangemaster before the weapon can be carried on duty.

The current duty shotgun is the 12 gauge Remington 870 pump-action. If an investigator desires to purchase and carry a different shotgun, the shotgun must meet the following requirements:

1. It must be a 12 gauge;
2. The shotgun must be either pump-action or semi-automatic;
3. The shotgun must be manufactured by one of the following companies: Beretta, Remington, or Benelli.
4. The weapon must be inspected and approved by a certified Rangemaster before it can be carried on duty;
5. The investigator must demonstrate proficiency with the weapon and pass a qualification course as directed by the Rangemaster before the weapon can be carried on duty.
6. Investigators must receive authorization from the Senior Investigator before carrying and/or using a shotgun slug round.

The current duty rifle is the Colt AR-15 Semi Auto. If an investigator desires to purchase and carry a different rifle, the rifle must meet the following requirements:

7. It must be a 556/223;
8. The rifle must be semi-automatic;

9. The rifle must be manufactured by one of the following companies: Remington, Colt or Bushmaster.
10. The weapon must be inspected and approved by a certified Rangemaster before it can be carried on duty;
11. The investigator must demonstrate proficiency with the weapon and pass a qualification course as directed by a certified Rangemaster before the weapon can be carried on duty.

#### **4.2 Authorized Off-Duty Firearms**

The carrying of firearms by Investigators while off-duty is permitted by the District Attorney but may be rescinded should the circumstances dictate (e.g., administrative leave). Investigators who choose to carry a firearm while off-duty, based on their authority as peace officers, will be required to meet the following guidelines:

- (a) The Investigator may use his/her duty firearm or may use a personally owned firearm that is carried and inspected in accordance with Department Approved Weapons requirements in this policy.
- (b) The firearm shall be carried concealed at all times and in such a manner as to prevent accidental unintentional cocking, discharge or loss of physical control.
- (c) The Investigator will successfully qualify with the firearm prior to it being carried.
- (d) When armed, Investigators shall carry their badges and Lassen County District Attorney's Office identification cards under circumstances requiring possession of such identification.

#### **4.3 Firearms Training and Qualification**

Investigators must attend all assigned firearms training sessions. Investigators are required to pass designated firearms qualification courses in order to demonstrate proficiency with assigned firearms.

Failure to qualify on designated qualification courses may subject the investigator to restricted duties during which time remedial training will be conducted.

## **5.0 Citizen Complaints**

### **5.1 Legal Requirement**

The provisions of California Penal Code Section 148.6 and 832.5 state, in part, that each department or agency that employs peace officers shall establish a procedure to investigate complaints against sworn personnel. This procedure sets forth a method to receive and investigate citizen complaints against investigators working for the District Attorney's office.

### **5.2 Citizen Complaint Package**

The citizen complaint packet comes in two parts. Part one advises the citizen of the complaint process and contains the provisions of California Penal Code Section 148.6. This provision explains a citizen's right to make a complaint.

Part two is the actual citizen complaint form for recording the nature of the complaint and the identity of the complainant.

The complaint packets will be located at the District Attorney's office and should be given to any citizen seeking to make a complaint.

### **5.3 Complaint Process**

The complaint process is as follows:

1. The complainant should complete the form and sign it;
2. The completed forms are confidential and shall be returned to the District Attorney's Office in a sealed envelope and forwarded to the Senior Investigator or District Attorney;
3. The Senior Investigator will consult with the District Attorney to determine the proper course of action;
4. The Senior Investigator or District Attorney designee will interview the complainant and complete a thorough, impartial investigation;

5. The completed investigation will be submitted to the District Attorney, who will determine the appropriate disposition. The completed case will be kept in a separate internal affairs file for a period of no less than five years;
6. The Senior Investigator or a designee shall provide a written case disposition to the District Attorney and to the citizen complainant.

## **6.0 Emergency Vehicle Operation**

### **6.1 Use of Emergency Lights and Siren**

Emergency equipment (red light and siren) will be activated and displayed only for a legitimate law enforcement purpose. Investigators, who are peace officers, are authorized to display/activate red light and siren for the following purposes:

1. To make a vehicle or pedestrian stop for a lawful purpose within the scope of employment and duties;
2. To expedite response to a request for emergency assistance by other peace officers or a law enforcement agency (e.g., a request for code three backup);
3. When responding to a disaster, an emergency call, or while engaged in a rescue operation if the circumstances or information available to the investigator indicate that an expedited response is necessary to prevent injury or to preserve life.

### **6.2 Investigator Responsibilities**

The driver of an emergency vehicle, per California Vehicle Code § 21056, is not relieved from the responsibility of:

1. Driving with due regard for the safety of all persons using the highway;
2. Recognizing the consequences of an arbitrary exercise of the privileges granted under section 21055 CVC

Only sworn peace officers are authorized to display/activate a red light or siren during the driving of any County vehicle.

Investigators who initiate an emergency response with red lights and siren will broadcast this information to the local law enforcement communication center for the immediate area.

Investigators will engage in vehicular pursuits only if the investigator's vehicle is equipped with a functioning and properly displayed forward facing red light (§25252 CVC) and siren. The red light and siren shall be activated during the entirety of the pursuit.

This directive is not intended to preclude investigators from periodically testing their emergency equipment to ensure proper functioning. This testing, however, should be done in a somewhat remote area away from normal traffic patterns.

## **7.0 Pursuit of Vehicles**

### **7.1 Pursuit Defined**

A pursuit is an event involving one or more law enforcement officers attempting to apprehend a suspected or actual violator of the law in a motor vehicle while the driver is using evasive tactics, such as high speed driving, driving off a highway, turning suddenly, or driving in a legal manner but failing to yield to the investigator's signal to stop.

### **7.2 Safety Rules Regarding Pursuits**

California Vehicle Code Section 21055 states the driver of an emergency vehicle may disregard Division 11, "Rules of the Road," when in pursuit of an actual or suspected violator, or when responding to an emergency. This provision does not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor does it protect the driver of an authorized emergency vehicle from the consequences of an arbitrary exercise of the provision.

### **7.3 Activation of Red Lights and Siren**

Investigators who engage in a vehicle pursuit shall immediately activate the emergency lights and sound the siren continuously

#### **7.4 Factors to Consider When Initiating, Continuing and/or Terminating Pursuits**

When a suspect exhibits the intention of avoiding arrest by using a vehicle to flee, or refuses to stop, investigator(s) shall consider public safety and effective law enforcement to determine whether the initiation of a vehicle pursuit is reasonable. Factors to be considered include:

1. The nature of the offense;
2. Is the pursuit reasonable with regard to posted and safe speed limits, and road, weather, and traffic conditions?

The involved investigator shall continually reassess whether a pursuit should continue. Factors the involved investigator(s) shall consider in determining whether a pursuit should continue or be terminated include, but shall not be limited to:

1. Public safety in the area of the pursuit;
2. The volume of vehicular and pedestrian traffic, roadway and environmental conditions, and the time of day;
3. The violation for which the suspect is wanted;
4. The speed of the violator;
5. The suspect has been identified to the point that he/she can be apprehended at a later time;
6. Distance between the pursuing investigators and the fleeing vehicle(s) is so great that further pursuit would be futile or require the pursuit to continue for an unreasonable time and/or distance;
7. Pursued vehicle's location is no longer definitely known;
8. Investigator's pursuit vehicle sustains any type of damage that renders it unsafe to drive.

Investigators shall not engage or participate in pursuits while transporting prisoners, victims, witnesses and/or other citizens.

## **7.5 Pursuit Responsibilities**

Investigator(s) initiating a vehicle pursuit shall verbally broadcast the following information to the law enforcement communication center responsible for police services in the area:

1. Their unit identifier and the fact they are in pursuit;
2. The location, direction of travel, and approximate speed;
3. Traffic conditions;
4. Reason for the pursuit;
5. Description of the vehicle and occupants.

The investigator in the primary unit shall be responsible for broadcasting the progress of the pursuit. Unless practical circumstances indicate otherwise, the primary investigator should relinquish the responsibility of broadcasting the progress of the pursuit to a secondary unit joining the pursuit.

Investigators engaged in a pursuit shall relinquish control and responsibility for the pursuit to the first marked law enforcement unit to join the pursuit. The investigator may remain in the pursuit as the secondary vehicle only if the nature of the offense and the potential hazard to the law enforcement officer(s) in the primary vehicle necessitate continue engagement in the pursuit. The investigator will terminate participation in the pursuit upon the arrival of a second marked unit.

### **Primary Unit Responsibilities**

The initial pursuing investigator will be designated as the primary pursuit unit and will be responsible for control of the pursuit, and ensure the appropriate information is broadcasted. The primary responsibility of the investigator initiating the pursuit is safety of the public in view of the assessment factors listed above (7.4).

### **Secondary Unit(s) Responsibilities**

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

1. The investigator in the secondary unit should immediately notify the dispatcher of entry into the pursuit;

2. Remain a safe distance behind the primary unit unless directed to assume the role of primary investigator, or if the primary unit is unable to continue the pursuit;
3. The secondary investigator should be responsible for broadcasting the progress of the pursuit unless the situation indicates otherwise.

### **Supervisory Responsibility**

Ultimately, supervision of the vehicle pursuit will be the responsibility of the law enforcement agency responsible for police services where the pursuit originated. Investigators engaged in the pursuit shall follow the direction given to them by the local law enforcement field supervisor.

### **7.6 Termination of Pursuit – Local Law Enforcement**

Investigators will terminate a pursuit when directed to do so by the local law enforcement agency with jurisdictional responsibility. The role and responsibilities of investigators at the termination point of a pursuit, initiated by this office, shall be coordinated with the appropriate law enforcement agency.

### **7.7 Administrative Review**

The following reports shall be completed to comply with appropriate local and state regulations:

1. The primary investigator shall complete all appropriate crime/arrest reports;
2. Pursuant to Vehicle Code § 14602.1(b), the primary investigator shall complete form CHP 187A, "Allied Agency Vehicle Pursuit Report", and forward it through the chain of command to the Senior Investigator or District Attorney. The completed report will be filed with the CHP no later than 30 days after the pursuit;
3. The Senior Investigator or District Attorney will review all pertinent reports for content, ensuring the pursuit was conducted within the guidelines and requirements of this directive. A separate memorandum shall be completed and contain a summary of the facts leading to the pursuit with any follow-up recommendations.

## **7.8 Regular and Periodic Pursuit Training**

In addition to initial and supplementary POST training on pursuits required by Penal Code § 13519.8, all investigators will participate annually in regular and periodic training addressing this directive; discussing the importance of vehicle safety and protecting the public at all times, including a recognition of the need to balance the known offense and the need for immediate capture against the risks to investigators and others (Vehicle Code §17004.7(d)).

Every investigator shall certify in writing that they have received, read and understand this policy initially and upon any amendments.

## **8.0 Arrest and Mandatory Reporting Requirements**

### **8.1 Arrests**

Investigators should be aware that arrests constitute one of the most dangerous aspects of law enforcement. For this reason, investigators must make all reasonable attempts to insure that arrests are carried out using the safest methods, techniques, and procedures available.

### **8.2 Arrest Procedures**

Prior to attempting service of an arrest warrant, the investigator will confirm the warrant(s) using the Known Persons System and/or the California Law Enforcement Telecommunications System (CLETS) or have the original warrant in his or her possession. In “probable cause” arrest situations, the investigator should gather evidence, locate witnesses, take statements and prepare a report. It is the responsibility of the arresting investigator to confer with a deputy district attorney to ensure the complaint is filed within the legal time limits.

When serving arrest warrants, it shall be the responsibility of the individual investigator to determine if a suspect should be allowed to surrender or be arrested in the field.

Arrest warrants obtained by investigators will be served as expeditiously as possible. There should be a least one Investigator and one local Officer assigned to the arrest of a suspect. Prior to an arrest, the investigator should be familiar with the suspect’s prior criminal record, other outstanding warrants, history of narcotic abuse, et cetera.

Absent exigent circumstances, investigators will have the proper safety equipment available to them prior to attempting an arrest. This includes a firearm with holster, spare magazine with magazine pouch, handcuffs, ASP baton, pepper spray, badge, and / or peace officer identification card.

Sufficient staff should be used when making arrests. When it appears necessary, for safety or security reasons, local law enforcement agencies should be notified and their assistance requested. Investigators should always evaluate whether the local agency should be advised in advance of an arrest in their jurisdiction as a courtesy and/or for officer safety. If the whereabouts of the suspect(s) is unknown, the warrant may be filed with the warrant detail of the Lassen County Sheriff's Department. The Sheriff's Department will enter the arrest warrant into the wanted person's system.

Absent extraordinary circumstances, all transported arrestees will be handcuffed. It is the responsibility of the investigator in charge of the arrest to determine how the arrestee is to be transported.

If an arrestee is interviewed and provides information that may be important for the immediate case or any other case, the investigator will write a detailed investigative report noting all relevant information.

### **8.3 Communications**

Investigators involved in arrest situations should make provisions to ensure that radio communications are properly used and maintained. The appropriate law enforcement dispatch center should be advised that an arrest has occurred, the destination where the arrestee will be taken, and subsequent arrival at the destination. Mileage between arrest location and destination will be reported to dispatch when the transporting investigator and arrestee are of different genders.

### **8.4 Out of County Arrests**

Pursuant to California Penal Code sections 821 and 822, when a warrant arrest is made out of county, the defendant must be informed in writing of his right to be taken before a magistrate in the county where the arrest is made. If the defendant does not waive his or her right to be taken before a magistrate of that county, the defendant must be booked into the jail of the county in which the arrest is made.

If the defendant waives his or her right to appear before a magistrate in the county where the warrant arrest occurred, the defendant may be returned to Lassen County for booking.

In order to satisfy the penal code requirements that the notification to the arrestee be in writing, a Notice of Defendant's Rights form has been created – and a sample may be found at the end of this manual section.

## **8.5 Child Welfare**

When an arrest is made of a suspect(s) who has custody of minor children, provisions must be made for the health and safety of those children. Absent a court order that addresses child custody, an investigator must obtain in writing from the arrestee permission to leave minor children with relatives. The relatives must accept in writing custody of said minors. Should no such permission be given, the minor(s) must be transported and placed with Lassen County Department of Child Services.

## **8.6 Mandatory Reporting Requirements – Child Abuse and Neglect**

Pursuant to California Penal Code Section 11165.7, investigators are “mandated reporters” for child abuse and/or neglect. Pursuant to California Penal Code Section 11166, investigators must immediately report child abuse or neglect via telephone to an agency specified in Section 11165.9 (e.g., county protective services, a police department or sheriff's department), and the investigator must follow up the telephone report with a written report within 36 hours. Failure to comply with this reporting requirement is a misdemeanor.

## **8.7 Mandatory Reporting Requirements – Elder and Dependent Abuse**

Pursuant to Welfare and Institutions Code Section 15630, investigators are “mandated reporters” for elder and dependent abuse. Section 15630 requires the investigator to immediately, or as soon as practical, make a telephonic report to adult protective services or a law enforcement agency, followed by a written report with two days, of any elder or dependent abuse or neglect. Failure to comply with this reporting requirement is a misdemeanor.

## **9.0 Bomb Threats**

### **9.1 Investigator Responsibility**

Investigators will assist in the response to bomb threats directed toward this office.

### **9.2 Bomb Threat Procedures**

The Senior Investigator will be notified of all bomb threats to this office. The Senior Investigator will immediately advise the District Attorney. The Senior Investigator

will obtain information concerning the threat to minimally include; who received the threat, the time of the threat, how the threat was communicated, the exact wording of the threat, and what action has been taken.

If a tape recording of the communication was made, the Senior Investigator shall take possession of the tape, securing the tape as evidence. If the threat was made through a note or a letter, the writing shall be secured.

The Senior Investigator or District Attorney will evaluate the information to determine if an immediate evacuation of the building is necessary. The general rule for a bomb threat is that the more detail communicated with the threat, the more likely the threat is real, and vice-a-versa. The appropriate response to the threat should be based on the nature and content of the threat.

The Senior Investigator will immediately notify the District Attorney.

In the absence of the Senior Investigator, the District Attorney will assume command of the incident. The District Attorney will notify the Lassen County Sheriffs Department of the bomb threat and request them to respond. The District Attorney should immediately assist the responding agency to search all public areas of the building (e.g., reception, waiting room, the restrooms, probation, and the Public Defender's Office).

An initial command post will be established in the front parking lot of the building. The Senior Investigator will assemble all available personnel at the command post. The Senior Investigator will remain at the command post to coordinate activities.

The Senior Investigator will immediately assign an employee to meet responding police units in the parking lot to inform them of actions being taken and to escort them to the command center.

It is important to note that cell phones and police radios should not be used for communication.

### **9.3 Immediate Evacuation**

Should there need to be an immediate evacuation, employees will be told of the threat and instructed to quickly check their immediate work areas for suspicious items before calmly leaving the building. Employees will be instructed not to touch suspicious items; instead, the item(s) should be reported to the command post prior to leaving the building. Employees will be directed to the parking lot in front of the building or to the Tire Pro's parking lot across the street.

Investigators may be asked to quickly walk through the building to ensure all employees received the evacuation instruction. Investigators may be asked to assist with the orderly evacuation, and to quickly check all public areas, inside and outside the office, for suspicious items.

Investigators shall not touch or disturb a suspicious item but only note the description and location. The investigator will notify the responding agency of the item.

#### **9.4 Facility Search without Evacuation**

If the nature and content of the threat does not warrant an immediate evacuation, a facility search may still be appropriate. In this case, employees will be asked to search their immediate work areas for anything suspicious. After searching their own work areas, investigators will be asked to tour the building repeating these instructions to employees and to receive information of any suspicious item. Investigators will search all public areas inside the facility and around the outside perimeter of the facility. The adjacent parking lots will be searched for the presence of any unusual object (s) or vehicle(s).

After completing search areas, investigators will report to the command post.

The Senior Investigator will ensure that all known information is communicated to the responding agency and will assist the assigned police officer as needed and appropriate. The Senior Investigator will obtain a case number and complete a report of the incident.

### **10.0 Administration**

#### **10.1 Official Correspondence**

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

## **11.0 On-Call Investigator**

### **11.1 On-Call Duties**

The District Attorney's Office provides a "call-out" service to all law enforcement agencies located within Lassen County including HDSP State Prison and CCC State Prison. Investigators are directed to respond to all requests from local agencies and the California Department of Corrections and Rehabilitation. Callouts are usually related to officer-involved shootings, use of force situations, and inmate homicides. Any questions regarding a call-out request should be directed to the Senior Investigator or District Attorney.

### **11.2 Agency Call-Outs**

The most common call-outs from local law enforcement agencies are requests to respond to officer-involved shootings, use of force situations, critical incidents, prison inmate homicides/deaths, community homicides/death and witness relocation.

Once notified, the Senior Investigator will obtain a short synopsis of the incident, the name of the on-scene commander or lead detective, and the location where the investigator is to respond. The investigator will then advise the District Attorney. Investigators responding to areas where law enforcement activity is ongoing will wear a clearly displayed badge and marked clothing identifying them as peace officers.

Occasionally, a law enforcement agency will contact the investigator many hours after the incident has occurred. In those cases, the investigator should arrange to meet the on-scene commander or lead detective to obtain the information needed for a report.

The investigators will not conduct an independent, on-scene investigation, but may assist in enforcement action if necessary. Under normal circumstances, the investigators are independent observers and shall not become involved in providing technical investigative assistance (fact finder or collector of evidence).

The primary role of the District Attorney's Office is to determine CRIMINAL LIABILITY. It is not to determine civil negligence, civil rights violations or to condone or condemn the policies of law enforcement agencies or their officers' tactical decisions.

Circumstances may dictate that one investigator respond to the crime scene while the second investigator responds to the location where interviews are being conducted. Information for a report shall be obtained. Report writing should be a shared responsibility. A common practice is for one investigator to write a summary/chronology of events while the other summarizes any interviews observed.

Reports shall be prepared in the memo format and should include (when practical): the full name and badge number of officers' involved; full names and addresses of any suspects/victims/witnesses including any other identifiers; the physical conditions and location of the injured person(s); and the names of investigating detectives and their telephone numbers.

Prior to leaving the scene, or the interview location, the investigators will contact the lead detective/scene commander and confirm that no further immediate and significant investigation remains to be completed. If the situation seems likely to become a high profile incident, the District Attorney should be notified.

Reports shall be completed as soon as possible and a copy provided to the District Attorney. Upon completion of the law enforcement agency investigation, the agency will personally submit their report to the appropriate Deputy District Attorney.

Unless directed otherwise, the investigators have no further responsibility beyond their initial response and report. The criminal investigator(s) shall not discuss any facts or offer any opinions to the media.

## **12.0 Vehicle Use**

### **12.1 General County Policy**

In accordance with the Lassen County Policy, county-owned vehicles will be used for official county business only and will be operated in a manner consistent with all safety and legal requirements of the county, state and other jurisdictions in which they are located. Employees violating this provision can be subject to disciplinary action and any financial obligation incurred.

County vehicles will not be used to transport any passengers other than authorized county employees on official county business or persons directly involved in official county business (e.g., witnesses, prisoners, speakers or fellow conference members).

Nothing herein will be construed to prohibit transporting any person or persons in case of an accident or other emergency. The provisions of this policy shall also not prohibit the use of county vehicles by properly authorized non-employee drivers. Prior authorization will be obtained from the employee's immediate supervisor. Nothing herein will prohibit the use of county vehicles by nonemployees in case of accident or emergency.

Pursuant to section 27360(a) & (b) of the California Vehicle Code, employees transporting children under eight years of age, regardless of weight, or weighing less than 60 pounds, regardless of age, shall ensure the child is secured in an approved child seat restraint system meeting applicable federal motor vehicle safety standards.

## **12.2 Security**

Employees shall lock the vehicle whenever it is unoccupied. If the vehicle is equipped with an alarm system or kill switch, the devices must be activated when the vehicle is left unoccupied.

## **12.3 Additional Rules**

1. Smoking is prohibited in all county vehicles;
2. The use of seat belts is mandatory. It is also the driver's responsibility to ensure each passenger uses a seat belt;
3. Vehicles will be washed and vacuumed on a regular basis;
4. Safety equipment, including firearms, will be reasonably secured within the vehicle;
5. If you experience mechanical difficulties, request a tow truck to be dispatched to your location;
6. Body or glass damage should be reported immediately to a supervisor or the Program Coordinator;
7. Home retention vehicles shall be stored in an area that reasonably provides for protection of the vehicle;

8. Employees will only use county gasoline credit cards;
9. Except for purchasing items needed on an emergency basis, gasoline credit cards will only be used for purchase of gasoline and oil;
10. Vehicles shall not be modified in any way. Any proposed changes to a vehicle must be submitted in writing to the District Attorney.

#### **12.4 Alcoholic Beverages**

Employees shall not consume alcoholic beverages and operate a county vehicle.

#### **12.5 Service and Repairs**

All county vehicles are to be kept clean and in good mechanical repair. For repairs and service, vehicles are to be taken to the county motorpool. A repair slip must be completed and left with the vehicle keys and alarm button. Routine service is required at 5,000 miles on all vehicles.

#### **12.6 Vehicle Accidents**

An employee who is involved in an accident where there are obvious or claimed injuries shall call 911 or the local law enforcement agency immediately. In an accident without injuries, the employee shall contact the police agency having jurisdiction over the area where the accident occurred. The employee shall request that the police agency write a traffic accident report.

In addition to an agency report, a "Driver's Report of Accident" must be completed within 24 hours when a county driver is involved in any accident, even if there appears to be no resulting vehicle damage, property damage, or bodily injuries. This includes accidents in personal vehicles being used on county business.

The Driver's Report of Accident shall be submitted to the employee's immediate supervisor and a copy forwarded to the fleet manager. Notification shall be made to the Program Coordinator with a copy of the report to submit to the Loss Prevention/Personnel Department.

## **DISCLAIMER**

The Lassen County District Attorney Investigator(s) policy manual is subject to frequent updates based upon changes in State or Federal laws and/or best practices. As changes occur, the most recent policies will be emailed to all Investigators.