

# INSPECTORS' DIVISION POLICY MANUAL

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# INSPECTORS' DIVISION POLICY MANUAL

## ALAMEDA COUNTY DISTRICT ATTORNEY'S OFFICE INSPECTORS' POLICY MANUAL

### CHIEF'S PREFACE:

The Alameda County District Attorney's Office Inspector's Division Policy Manual has been revised and reformatted as of December 31, 2020. The manual provides information to all Inspectors regarding not only the mission and values of the organization, but also addresses protocols, conduct acceptable practices and methods of operation. The manual is designed to facilitate the usage of significant amounts of information that Inspector's may deal with regarding our statutory authority. It also outlines acceptable practices in specific areas which not only comport with the law, but also are consistent with the organizational culture of the entire District Attorney's Office. A thorough knowledge of the information contained in this manual coupled with compliance while performing your job functions should result in superior performance and service to our community. A positive personal attitude together with the philosophies outlined in this manual will ensure that the mission and values of the entire Alameda County District Attorney's Office are achieved.

Robert A. Chenault  
Chief of Inspectors

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## LAW ENFORCEMENT CODE OF ETHICS:

As a law enforcement officer, my fundamental duty is to serve the community; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation and the peaceful against violence or disorder; and to respect the constitutional rights of all to liberty, equality and justice. I will keep my private life unsullied as an example to all and will behave in a manner that does not bring discredit to me or to my agency. I will maintain courageous calm in the face of danger, scorn or ridicule; develop self-restraint; and be constantly mindful of the welfare of others. Honest in thought and deed both in my personal and official life, I will be exemplary in obeying the law and the regulations of my department. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept ever secret unless revelation is necessary in the performance of my duty. I will never act officiously or permit personal feelings, prejudices, political beliefs, aspirations, animosities or friendships to influence my decisions. With no compromise for crime and with relentless prosecution of criminals, I will enforce the law courteously and appropriately without fear or favor, malice or ill will, never employing unnecessary force or violence and never accepting gratuities. I recognize the badge of my office as a symbol of public faith, and I accept it as a public trust to be held so long as I am true to the ethics of police service. I will never engage in acts of corruption or bribery, nor will I condone such acts by other police officers. I will cooperate with all legally authorized agencies and their representatives in the pursuit of justice. I know that I alone am responsible for my own standard of professional performance and will take every reasonable opportunity to enhance and improve my level of knowledge and competence. I will constantly strive to achieve these objectives and ideals, dedicating myself before God to my chosen profession . . . law enforcement.

## MISSION STATEMENT:

Uphold Alameda County as a safe and livable community through the fair and effective administration of justice; compassionate and committed support of crime victims; innovative programs that provide opportunities for rehabilitation and reintegration; and programs designed to enhance the lives of vulnerable populations, children and youth for a bright, healthy future.

# INSPECTORS' DIVISION POLICY MANUAL

## 1. PURPOSE, SCOPE AND REVISIONS OF THIS POLICY

- 1.1. **Purpose.** This Inspectors' Division Policy Manual is intended to provide comprehensive guidelines to sworn peace officers of the Inspectors' Division on their various administrative, legal, investigative, and operational duties and responsibilities.
- 1.2. **Revisions.** The Assistant Chief of Inspectors shall conduct annual reviews of this policy manual and publish updates no later than December 15<sup>th</sup> of each year. These updates should not only incorporate changes in the law, but also adjustments to policies and procedures to ensure the continued professional excellence of the Inspectors' Division.

## 2. ADMINISTRATIVE POLICY

### 2.1. District Attorney Inspector

- 2.1.1. All Inspectors employed by the District Attorney's Office are full-time peace officers according to Section 830.1 of the California Penal Code, and as such, have full peace officer powers within the State of California.
- 2.1.2. All Inspectors within the District Attorney's Office are "at will" employees. The term "at will" is defined as "at the discretion of the District Attorney."
- 2.1.3. All Inspectors within the District Attorney's Office shall be available for duty and subject to being on call 24-hours a day, regardless of the assignment. If a critical incident or major disaster occurs, Inspectors shall contact their immediate supervisor for updates and information.

### 2.2. Vacation

- 2.2.1. All full-time Inspectors accumulate vacation and are eligible to take paid vacation. Vacation is accrued at the rate prescribed by Alameda County.
- 2.2.2. All vacation requests must be submitted to their immediate supervisor for approval at least five (5) days prior to the start date of vacation. Extenuating circumstances may be considered by the supervisor if a five day notice is not given.
- 2.2.3. DA form entitled "REQUEST FOR TIME OFF" shall be completed by all Inspectors seeking vacation, floating holidays, paid leave, or emergency personal leave. The form shall be submitted to their immediate supervisor for approval.

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- 2.2.4. All "REQUEST FOR TIME OFF" forms shall be submitted through the chain of command in a timely manner or immediately upon return from emergency leave.
- 2.2.5. Vacation may be sold back at the rate authorized by the County. Vacation sell back may be denied by the District Attorney or County at any time.

### **2.3. Sick Leave**

- 2.3.1. All full-time Inspectors accumulate sick leave at the rate prescribed by the County.
- 2.3.2. DA form entitled "EMPLOYEE SICK LEAVE REPORT" shall be used to report all sick leave including medical/dental appointments, injuries, maternity leave, and care of immediate family. The form shall be submitted to their immediate supervisor in a timely manner, prior to an appointment, or upon returning to work.
- 2.3.3. All Inspectors shall notify their immediate supervisor or the next supervisor in their chain of command on the same day of their absence if they are ill, injured, or seeking medical care. It shall be the responsibility of the notified supervisor to advise the chain of command of the absence.
- 2.3.4. Any absence due to an illness for a period of time exceeding three (3) consecutive days off may require a letter from a physician stating the Inspector was unable to work during that period of time.
- 2.3.5. Any long-term illness or injury shall require a "FULL DUTY" release statement from a recognized physician prior to returning to work. The Chief of Inspectors may require the opinion of a County designated physician depending on the type of injury or illness. "Long-term" is defined as "under doctor's care" for an extended period of time.
- 2.3.6. The Chief of Inspectors may require ill or injured Inspectors to report their status on a daily or weekly basis.
- 2.3.7. Inspectors shall not abuse their sick leave, or use it for any purpose other than those defined by the County of Alameda.
- 2.3.8. Inspectors who abuse their sick leave privilege are subject to disciplinary action.

### **2.4. Industrial Injury/Illness**

- 2.4.1. All Inspectors injured in the line of duty are covered by the State of California Workers' Compensation Act. It is the responsibility of the injured Inspector to immediately notify, as soon as possible, the supervisor or the next supervisor in the chain of command of the injury, the cause of the injury and the extent of the injury.

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- 2.4.2. The immediate supervisor shall be responsible for the proper completion of form 5020 "SUPERVISOR'S REPORT," and collection of form 5020-W "WITNESS TO JOB-RELATED INJURY," and directing injured persons to either their "pre-designated" physician or a "workers' compensation" physician as listed on posted form 175-75D at the worksite. The injured employee shall be given the appropriate copy of all forms. This shall be completed within 24-hours of notification.
- 2.4.3. <http://dsmain/docushare/dscgi/ds.py/View/Collection-168>
- 2.4.4. All immediate supervisors shall notify the chain of command about the injury incident as soon as possible.
- 2.4.5. Any follow-up correspondence, medical reports or similar materials given to the employee for the employer shall be provided without delay to the Chief of Inspectors.

## **2.5. Leave of Absence with or without Pay**

- 2.5.1. Any Inspector who, without prior approval, is absent for three (3) consecutive work days and fails to perform their duties may be terminated.
- 2.5.2. Military leave of absence shall be allowed with pay and in accordance with all applicable laws. DA form 052 entitled "REQUEST FOR LEAVE OF ABSENCE" shall be submitted with copies of official military orders to the Chief of Inspectors.
- 2.5.3. Bereavement leave shall be allowed with pay, not to exceed five (5) days, for the verified death of an Inspector's father, mother, stepfather, stepmother, father-in-law, mother-in-law, brother, sister, husband, wife, child, or stepchild. DA form 052 entitled "REQUEST FOR LEAVE OF ABSENCE" shall be used.
- 2.5.4. Witness leave with pay shall be authorized if a civil subpoena has been properly issued and served for an Inspector's attendance as a witness. DA form 052 entitled "REQUEST FOR LEAVE OF ABSENCE" shall be used. Any other type of appearance (other than a witness) shall be detailed to the Chief of Inspectors.
- 2.5.5. Any Inspector who receives witness leave with pay, and who receives a deposit of fees for their appearance, shall surrender those fees to the County Treasurer. An Inspector, who receives witness leave with pay and a fee for attendance without surrendering it, shall be subject to disciplinary action.

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## 2.6. Authorized Equipment

- 2.6.1. While on duty, Inspectors shall carry the following equipment at all times:
- a. Duty Weapon: A firearm, personally owned by each Inspector and approved by the Chief of Inspectors, which shall be fully loaded at all times while on duty, with at least one additional fully loaded spare magazine. Duty weapons must be secured in a hip holster as used during firearms qualification. Shoulder holsters, fanny packs, ankle holsters and purses shall not be used for carrying duty weapons.
  - b. Ammunition: Office issued only.
  - c. Handcuffs and handcuff key.
  - d. Office-issued or Office approved badge and official identification card.
- 2.6.2. Any Inspector not carrying the proper equipment may be subject to disciplinary action at the discretion of the Chief of Inspectors.
- 2.6.3. Any loss or theft of equipment shall be immediately reported in writing to the Chief of Inspectors through the chain of command.
- 2.6.4. The Inspectors' Division maintains "special" equipment such as shotguns, and semi-automatic weapons. Authorization for the use of this "special" equipment must be obtained from the Chief of Inspectors or the Captain of Inspectors.
- 2.6.5. Any deviation of this section due to a special duty assignment must be approved via the chain of command.

## 2.7. Issued Equipment

- 2.7.1. The following equipment shall be issued to each Inspector: Badge, ID card, OC spray, raid jacket and hat, office key, security card key, personal card for county gasoline, and a county vehicle.
- 2.7.2. All Inspectors shall maintain their issued equipment and report any damage, loss, or theft of equipment to the Chief of Inspectors via the chain of command. The reporting shall be done in writing and in a timely manner. Failure to do so may result in disciplinary action at the discretion of the Chief of Inspectors.
- 2.7.3. The Captain of Inspectors shall issue and maintain records of all issued equipment.



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2.7.4. All requests for new equipment, replacement, repair, or salvage of equipment shall be submitted in writing to the Chief of Inspectors for approval and requisition.

2.7.5. All county and office-issued equipment assigned to an Inspector shall be surrendered when terminated, retired, or upon request by the Chief of Inspectors or the Captain of Inspectors.

## **2.8. Disciplinary Actions**

2.8.1. Disciplinary action in the form of a verbal warning regarding an area for needed improvement or a minor infraction shall be documented and discussed with the Inspector by their supervisor.

2.8.2. A written reprimand is a memorandum from the Chief of Inspectors noting the need for improvement in work habits or violations of policy. A written reprimand shall detail the potential for more serious discipline if there are subsequent offenses or performance failure to reflect improvement. The subject receiving the written reprimand shall acknowledge receipt by signing the original. The subject being disciplined will be given the original and a copy of the signed document will be placed in the subject's personnel file.

2.8.3. Administrative leave with pay pending an investigation may be implemented by the Chief of Inspectors or a designee with the approval of the District Attorney.

2.8.4. A suspension without pay pending an investigation, or as a disciplinary step, may be implemented by the Chief of Inspectors or a designee with the approval of the District Attorney.

2.8.5. A reduction in pay step, rank, or seniority may be implemented by the Chief of Inspectors with the approval of the District Attorney.

2.8.6. A termination of employment may be implemented by the Chief of Inspectors with the approval of the District Attorney.

2.8.7. All forms of disciplinary action taken by the Chief of Inspectors shall be in accordance with the approval and policy of the District Attorney. All disciplinary actions shall be documented in the personnel file.

2.8.8. All disciplinary actions shall be fully evaluated, and the severity of the offense shall be considered by the Chief of Inspectors. Final approval for the action shall come from the District Attorney.

2.8.9. The District Attorney, Chief Assistant District Attorney, Chief of

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Inspectors, or their designee, has the authority to impose administrative leave until the next business day against any Inspector of the Division when it appears such action is in the best interests of the Office of the District Attorney.

- 2.8.10. Any Inspector placed on administrative leave shall be required to report to the Chief of Inspectors or his/her designee on the next business day at 8:30 a.m., unless otherwise directed by competent authority. The command level person imposing the leave shall also report to the Chief of Inspectors.

## 3. PERSONNEL POLICY

### 3.1. Professional Conduct

- 3.1.1. All Inspectors are required to be truthful at all times, whether under oath or not.
- 3.1.2. All Inspectors shall conduct their private and professional lives in such a manner as to avoid bringing disrepute upon the Office of the District Attorney.
- 3.1.3. All Inspectors shall maintain a loyalty to the Office of the District Attorney and its members as is consistent with the law and personal ethics.
- 3.1.4. All Inspectors shall take appropriate official action toward aiding a fellow peace officer exposed to danger or in a situation where danger might be impending.
- 3.1.5. Failure or deliberate refusal of any Inspector to obey a lawful order given by a supervisor shall be insubordination. Ridicule of supervisors or their orders whether in or out of their presence is also insubordination.
- 3.1.6. Any Inspector in doubt as to the nature or details of their assignment shall seek clarity from their supervisor and through the chain of command as necessary.
- 3.1.7. All Inspectors shall be familiar with laws, ordinances and policies and procedures of the District Attorney's Office. In the event of improper action or breach of discipline by an Inspector, they will be presumed to have been familiar with the law, ordinances or policy in question.
- 3.1.8. All Inspectors shall perform their duties as required by law, rule, policy, directive, or order from a supervisor.
- 3.1.9. All Inspectors shall observe and obey all federal and state laws, local ordinances, all rules and policies of the Office of the District Attorney, and all administrative orders issued by, or on behalf of the Chief of Inspectors.

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- 3.1.10. Any Inspector having knowledge of others violating the law, a family member arrested, or a conflict in any case shall report the violation, arrest, or conflict to the Chief of Inspectors.
- 3.1.11. All Inspectors shall report to their immediate supervisor any misconduct on the part of any Inspector or other employee of the District Attorney's Office.
- 3.1.12. All Inspectors shall treat their supervisors, peers, subordinates, Deputy District Attorneys, Victim-Witness staff, and professional staff members and peers with dignity and respect. They shall, at all times, remain courteous and civil in their relationship with one another.
- 3.1.13. All Inspectors shall treat members of the public with dignity and respect. They shall remain courteous and civil at all times in their relationship with the public.
- 3.1.14. No Inspector shall discriminate against another member or another person. Nor shall any Inspector make derogatory, racial, ethnic, sexual, or religious remarks against or about other persons.
- 3.1.15. Any order given to an Inspector by a supervisor shall be given in a clear and understandable manner, civil in tone, and issued in pursuit of the Inspectors' Division goals and objectives.
- 3.1.16. No supervisor shall knowingly issue any order in violation of any law, ordinance, or against Office policy.
- 3.1.17. No Inspector shall be required to obey any order which is contrary to any law. Responsibility for the refusal to obey an unlawful order rests with the Inspector.
- 3.1.18. Inspectors who are given an order they feel to be unjust or contrary to rules or policies must first obey the order to the best of their ability; then proceed to the next higher chain of command for clarity or appeal.
- 3.1.19. Any Inspector who receives an unlawful, unjust, or improper order shall report in writing the matter to the next higher level in the chain of command.
- 3.1.20. Inspectors shall not accept or solicit gifts, gratuities, fees, rewards, or anything of value arising from or offered because of their employment with the District Attorney's Office or the performance of their duties.
- 3.1.21. No Inspector shall use any drug, narcotic, or other controlled substance unless prescribed by a physician or dentist. Alcoholic beverages shall not be consumed while on duty unless authorized and in the performance of

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duty or special assignment.

- 3.1.22. All Inspectors shall record their current and correct address and telephone number with the Captain of Inspectors, through the chain of command. Any address and/or telephone change shall be reported within 24-hours. The Administrative Captain of Inspectors shall maintain records of addresses and telephone numbers.
- 3.1.23. Any Inspector who personally knows a defendant on trial shall notify the Chief of Inspectors via the chain of command. The Deputy District Attorney handling the case shall be notified, unless advised otherwise by the Chief of Inspectors, District Attorney, or Chief Assistant District Attorney. The term "personally" is defined as "beyond a mere acquaintance."

## **3.2. Public Activity**

- 3.2.1. Inspectors shall not seek personal publicity in the course of performing their duty.
- 3.2.2. Any request for a public appearance, speech, demonstration, etc., by an Inspector must be made to, and authorized by the Chief of Inspectors. In the absence of the Chief of Inspectors, the Captain of Inspectors may handle the request. The requesting party shall be required to submit a written formal request outlining the purpose and scope of the event. This shall apply whether on or off-duty and whether Office related.
- 3.2.3. Any request to participate on any type of personnel or oral interview board or panel shall be directed to the Chief of Inspectors in a written formal request by the party or agency making the request.
- 3.2.4. All Inspectors shall submit a written request and receive approval from the Chief of Inspectors prior to engaging in any outside employment or business.

## **3.3. Attire/Personal Appearance**

- 3.3.1. All Inspectors employed by the District Attorney's Office are full-time peace officers, and as such, may be required to affect arrests or apprehend suspect(s) and routinely appear in public and in court. Therefore, their attire shall be appropriate to perform these functions safely.
- 3.3.2. Inspectors are required to wear business attire and to appear professional, conservative and neat. Any eccentric attire, hair style or jewelry is not permitted. Occasionally, it may be necessary to wear clothing more suited for an assignment, special detail or training.
- 3.3.3. Inspectors are not authorized to have a beard unless prescribed by a physician. A beard may be authorized due to a special assignment.

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- 3.3.4. The wearing of jewelry that may pose a hazard during the Inspector's performance of their duties is prohibited. Facial jewelry or piercing shall not be worn while on duty. Earrings shall be limited to one earring per ear lobe.
- 3.3.5. Tattoos on the face, neck and arms must not be visible while on duty.
- 3.3.6. Any deviation from this policy must be approved by the Chief of Inspectors.

## 4. USE OF FORCE

### 4.1. Purpose

- 4.1.1. To provide guidelines and expectations to Inspectors (sworn peace officers) on the use of force in the performance of their official duties.
- 4.1.2. The Alameda County District Attorney's Office recognizes that even at its lowest levels, the use of force is a serious responsibility that must be exercised judiciously, with respect for human rights and dignity, and with reverence for the sanctity of every human life. Inspectors are expected to carry out their duties, including decisions to use force, in a fair, unbiased, and reasonable manner.

### 4.2. Policy

- 4.2.1. The Alameda County District Attorney's Office recognizes and respects the value of human life and dignity of all persons. Vesting Inspectors with authority to use force to protect the public welfare requires a careful balancing of all human interests. Inspectors must have an understanding of, and appreciation for, the limitations of their authority, particularly with respect to overcoming resistance from those with whom they come in official contact.
- 4.2.2. Inspectors shall use only that force which is necessary, proportional, and reasonable:
  - Necessary in that circumstances required force be employed (see definition 4.3.7 below).
  - Proportional in that the amount of force was deemed not only effective, but also commensurate with the severity of the crime and the level of resistance posed (proportional does not mean Inspectors must use the same type or amount of force being used

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by the engaged subject).

- Reasonable in that an objectively reasonable Inspector, facing the same situation and circumstances, and without the benefit of hindsight, would have used substantially similar force.

Furthermore, force shall only be used in furtherance of a legitimate law enforcement purpose.

- 4.2.3. Decisions by Inspectors shall be evaluated from the perspective of a reasonable Inspector in the same situation, based on the totality of the circumstances known to or perceived by the Inspector at the time, rather than with the benefit of hindsight. The totality of the circumstances shall account for occasions when Inspectors may be forced to make quick judgments about using various techniques, resources, and force options to ensure public safety and to accomplish their legitimate law enforcement purpose.
- 4.2.4. Any Inspector present and observing another peace officer using force that the Inspector reasonably believes is beyond that which is necessary shall, when in a position to do so, intercede to prevent the use of excessive force. In addition, at the conclusion of such an incident, the observing Inspector shall promptly report the incident to the observing Inspector's supervisor or commander.

## 4.3. Definitions

Definitions relating to this policy include:

- 4.3.1. **FORCE OPTION:** A method or type of force that an Inspector may employ on a subject. These options range from control holds (at the lowest end of options) to engagement with firearms (at the highest end of options).
- 4.3.2. **LESS LETHAL FORCE:** That force which is unlikely, when properly used, to result in serious physical injury or death.
- 4.3.3. **DEADLY FORCE:** That force which creates a substantial risk of causing serious bodily injury or death.
- 4.3.4. **REPORTABLE USE OF FORCE:** Force (specifically defined later in this policy) that shall be documented in an Inspector's Report. Reportable uses of force may also require various degrees of investigation by supervisors and/or commanders.
- 4.3.5. **SERIOUS BODILY INJURY:** A serious impairment of physical

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condition, including but not limited to:

- a. Loss of consciousness.
- b. Concussion.
- c. Bone fracture.
- d. Protracted loss, impairment, or function of any bodily member or organ.
- e. Wound requiring extensive suturing.
- f. Serious disfigurement.

4.3.6. **USE OF FORCE:** Any physical or mechanical intervention used by an Inspector to defend against, control, overpower, restrain, or overcome a subject.

4.3.7. **NECESSARY FORCE:** Force that is required to be employed under the totality of circumstances, given that other resources, techniques, and force options were either ineffective, or reasonably deemed to be infeasible.

4.3.8. **FEASIBLE:** Reasonably capable of being accomplished under the circumstances, and without increasing risk to the Inspector or others.

4.3.9. **IMMINENT THREAT OF SERIOUS BODILY INJURY OR DEATH:** When an objectively reasonable Inspector, given the totality of circumstances, perceives that a subject possesses the opportunity, ability, and intent to inflict such injury on the Inspector or another person, unless the Inspector employs deadly force without delay to stop the subject's anticipated or ongoing actions.

## 4.4. Legal Authority (Force)

4.4.1. When employing force, Inspectors shall be guided by the following legal authority:

- a. California Penal Code Section 196 - "Homicide is justifiable when committed by peace officers and those acting by their command in their aid and assistance, under either of the following circumstances: .... (b) When the homicide results from a peace officer's use of force that is in compliance with Section 835a."
- b. California Penal Code Section 835a (b) - "Any peace officer who has reasonable cause to believe that the person to be arrested has

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committed a public offense may use objectively reasonable force to effect the arrest, to prevent escape, or to overcome resistance.”

- c. California Penal Code Section 835a (c) - “. . . a peace officer is justified in using deadly force upon another person only when the officer reasonably believes, based on the totality of the circumstances, that such force is necessary for either of the following reasons: (a) To defend against an imminent threat of death or serious bodily injury to the officer or to another person. (b) To apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the officer reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended.”
- d. California Penal Code Section 835a (d) - “A peace officer who makes or attempts to make an arrest need not retreat or desist from their efforts by reason of the resistance or threatened resistance of the person being arrested. A peace officer shall not be deemed an aggressor or lose the right to self-defense by the use of objectively reasonable force . . . to effect the arrest or to prevent escape or to overcome resistance...retreat does not mean tactical repositioning or other de-escalation tactics.”
- e. California Penal Code Section 149 - Assault by Public Officer: “Every public officer who, under color of authority, without lawful necessity, assaults or beats any person, is punishable by imprisonment in the county jail as a felony for up to three years or as a misdemeanor for up to one year.”
- f. Tennessee v. Garner, 471 U.S. 1 (1985) - This United States Supreme Court case requires for the use of deadly force against a fleeing felon to be legal, the felony must be of a violent variety, i.e., a forcible and atrocious one which threatens death or serious bodily harm to you or another, and the need to overcome the resistance of the fleeing felon must outweigh the intrusiveness of the force.
- g. Graham v. Connor, 490 U.S. 386 (1989) - This United States Supreme Court case determined that an objective reasonableness standard should apply to a civilian’s claim that law enforcement officials used excessive force in the course of making an arrest, investigatory stop, or other “seizure” of his person. The court also stated that the “reasonableness” of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight.



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## 4.5. Factors in Applying Force and Evaluating Uses of Force

4.5.1. When determining whether to apply force, or when evaluating whether such force was necessary, proportional and reasonable under the totality of circumstances, one must consider the facts and factors known or perceived by the Inspector at the time force was applied. These factors and facts include, but are not limited to:

- Seriousness/severity of the crime.
- Immediacy and severity of the threat to Inspectors and others.
- Level of resistance presented by the subject.
- Subject's attempts to evade arrest by flight.
- Subject's actions throughout the incident.
- Officer/subject factors (age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, and the number of officers available vs. subjects).
- Inspector's actions throughout the incident.
- Agency's use of force policy.
- The effects of drugs or alcohol on the subject.
- Subject's mental state or capacity.
- Proximity of weapons or dangerous objects that could be used as weapons.
- The degree to which the subject has been effectively restrained and his/her ability to resist despite being restrained.
- The availability of other force options and their possible effectiveness.
- The training and experience of the Inspector.
- Potential for injury to Inspectors, other officers, subjects or citizens.
- The risk and foreseeable consequences of escape.
- The need for immediate control of the subject or a prompt

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resolution to the situation.

- Whether the conduct of the subject being confronted no longer reasonably appears to pose an imminent threat to others.
- Prior contacts with the subject and the Inspector's awareness of any propensity for violence.
- Environmental factors.
- Any other exigent circumstances.

## 4.6. Less Lethal Force

- 4.6.1. Less lethal force may be employed to defend against assaults, effect arrests, prevent escapes, or overcome resistance. The following subsections provide a list of authorized less lethal force options.
- 4.6.2. Pointing Firearms. The pointing of a firearm at a person is a Fourth Amendment seizure and a use of force. Inspectors shall only point a firearm at another person if there is an objectively reasonable perception of a substantial risk that the situation may escalate to justify lethal force.
- 4.6.3. Control Holds and Physical Prowess. These include, but are not limited to:
- a. Escorts (holding subject's arm/elbow).
  - b. Twist lock.
  - c. Arm bars.
  - d. Bent wrists.
  - e. Pushing, pulling, or otherwise inhibiting or directing a subject's movement (techniques not included in 4.6.4. below).
- 4.6.4. Weaponless Defense Techniques. These techniques include, but are not limited to:
- a. Non-striking techniques applied to vulnerable areas (i.e., hair grabs, pressure point applications, etc.).
  - b. Hand/palm/elbow strikes.
  - c. Kicks (reasonably avoid the following target areas: head, neck, throat, groin, kidney, xiphoid process areas and the heart).

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- d. Leg sweeps.
- e. Takedowns.

Note: Carotid restraints, choke holds (i.e., applying direct pressure to the trachea or windpipe) and striking with firearms are not authorized less lethal force options.

4.6.5. Chemical Weapons. The only chemical weapons authorized are OC sprays, as detailed in subsection 6.1, OC Spray.

4.6.6. Impact Weapons

- a. Expandable Baton Strikes. Prohibited to the head, throat, and neck, and reasonably avoid the following target areas: groin, kidney, xiphoid process areas and the heart. Only those Inspectors who have received training in the use of the expandable baton may carry this less lethal weapon. This policy does not authorize the use of other law enforcement-type impact weapons (i.e., long baton, short baton, saps, etc.), except as indicated in paragraph 4.7.6.c. below.
- b. Impromptu Impact Weapons. Impromptu impact weapons may only be employed as less lethal force options when reasonable alternatives have been exhausted, are unavailable, or are impractical.

## 4.7. Deadly Force

4.7.1. Inspectors may use deadly force when they reasonably believe, based on the totality of the circumstances, that such force is necessary to defend against an imminent threat of death or serious bodily injury to the Inspector or to another person. Inspectors shall not use deadly force against a person solely based on the danger that person poses to themselves.

4.7.2. Inspectors may use deadly force when they reasonably believe, based on the totality of the circumstances, that such force is necessary to apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the Inspector reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended.

4.7.3. Inspectors should avoid shooting at moving vehicles that pose an imminent threat of death or serious bodily injury to themselves or others; instead they should attempt to move out of the path of the approaching vehicle. An Inspector should only shoot at a moving vehicle when he/she reasonably believes there are no other reasonable means available to avert the threat of the vehicle, or if deadly force other than the vehicle is

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directed at the Inspector or others. Inspectors should not shoot at any part of a vehicle in an attempt to disable the vehicle.

- 4.7.4. Inspectors shall not shoot from a moving vehicle unless necessary to defend against an imminent threat of death or serious bodily injury to the Inspector or others.
- 4.7.5. Inspectors shall not fire warning shots.
- 4.7.6. Deadly force options include, but are not limited to the following:
  - a. Discharge of a firearm with lethal ammunition (whether or not the bullet impacts the subject).
  - b. Expandable baton strikes to the head, neck and throat.
  - c. Impromptu Weapons/Techniques. Impromptu weapons and techniques may only be employed as deadly force options when firearms and expandable baton strikes to the head have been exhausted, are unavailable, or are impractical.

## 4.8. Verbal Warnings

- 4.8.1. Where feasible, prior to using chemical or impact weapon force, or any type of deadly force, Inspectors shall make reasonable efforts to identify themselves as a peace officer and to warn that such force may be used, unless the Inspector has objectively reasonable grounds to believe the person is aware of those facts.

## 4.9. De-escalation

- 4.9.1. De-escalation is a strategy to resolve interactions between law enforcement and uncooperative/noncompliant subjects either peacefully, or failing that, using reduced levels of force. The strategy is achieved by implementing various techniques and tactics in order to reduce the intensity of the situation and/or the immediacy of potential/actual threats. Inspectors shall use de-escalation techniques and tactics when reasonably safe and feasible to do so.
- 4.9.2. Employing de-escalation techniques and tactics serve to slow the operational tempo, increase officer safety, and enhance tactical advantage. These benefits tend to reduce stress levels and thereby create opportunities for better decision-making on the part of all involved. Notwithstanding its benefits, de-escalation during potential force encounters is not a goal in and of itself, but merely a means to making decisions, which increases the chances of minimizing uses of force.

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- 4.9.3. De-escalation communications techniques vary in form, but generally serve to sway subject behavior toward voluntary compliance with law enforcement directives. These techniques may include elements such as active listening, showing empathy, establishing rapport and generating influence. Inspectors may also request the assistance of Crisis Intervention Technique (CIT) qualified Inspectors/Officers to enhance communications. Besides seeking to gain voluntary compliance, such communications techniques also extend the incident timeline in order to allow Inspectors to implement de-escalation tactical techniques.
- 4.9.4. When the time and circumstances reasonably permit, an officer(s) shall consider whether a subject's lack of compliance is a deliberate intentional attempt to resist or is the result of an inability to comply based upon factors including, but not limited to: medical conditions, mental impairment, developmental disability, physical limitations, language barriers, drug/alcohol impairment and behavioral crises.
- 4.9.5. De-escalation tactics include, but are not limited to:
- a. Creating distance from the subject in order to safeguard innocents and Inspectors/other peace officers.
  - b. Using barriers and shielding between the subject and Inspectors in order to safeguard innocents and Inspectors/other peace officers.
  - c. Bringing additional Inspectors and outside agency peace officers to the scene to provide numerically superiority and thus gain the subject's compliance.
  - d. Bringing outside agency peace officers with supplemental resources (i.e., less lethal options, armored vehicles, air support, etc.) to the scene to allow for force options short of deadly force.
  - e. Repositioning Inspectors/other peace officers to gain tactical advantage and/or to allow for the use of less lethal force on the subject.
  - f. If necessary, employing force options to reduce situational intensity for the safety of all parties.
- 4.9.6. In circumstances where Inspectors have used force, they shall de-escalate that force as soon as they reasonably believe a lesser level or no further force is necessary.

### **4.10. Post Use of Force Medical Aid**

- 4.10.1. In the event an Inspector uses OC spray or an impact weapon on a subject, or if an Inspector uses any force on a subject and there is an injury or

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reasonable complaint of pain, medical personnel (ambulance or fire department) shall be called to the scene to provide medical treatment. Before medical personnel arrive, Inspectors should attempt to provide medical assistance, if trained to do, such assistance is feasible and providing the scene is secure.

4.10.2. If deemed necessary by the Inspector or emergency personnel, the subject shall be transported, as soon as possible, via appropriate ambulance to a medical facility for additional medical treatment.

4.10.3. Subjects sprayed with OC shall:

- a. Be removed from the contaminated area as quickly as possible.
- b. Be monitored visually as frequently as physically possible during field detention, arrest and transportation to ensure that they do not experience breathing difficulty.
- c. Have their eyes and face thoroughly washed with clear water as soon as possible.

4.10.4. Inspectors are prohibited from securing a subject by binding his/her hands and feet together behind the back in a "hog-tying" fashion and/or transporting them on their stomach in a vehicle.

4.10.5. During a field detention, transportation and custodial restraint situations, subjects shall be positioned so that they do not experience breathing difficulty. This is especially important if a subject has been sprayed with OC and/or is suspected of being under the influence of drugs or alcohol. It is critical to closely monitor subjects who are experiencing breathing difficulty and to get them immediate medical attention as soon as possible.

## **4.11. Post Use of Force Reporting/Investigation Responsibilities**

4.11.1. Required reporting and force investigation procedures are outlined below:

- a. Less lethal force consisting of pointing firearms, control holds and/or handcuffing for the purpose of escorting, and physical prowess that do not result in either injury or a reasonable complaint of pain are not reportable uses of force, and thus do not require either reporting or force investigations. However, all such less lethal force that does result in either injury or a reasonable complaint of pain shall require reporting and force investigation.
- b. All less lethal uses of force not addressed in 4.11.1.a., as well as all deadly uses of force, shall require reporting and force investigation.

4.11.2. Less Lethal Force. Reporting and investigation responsibilities for less

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lethal force are as follows:

a. Inspectors' Responsibilities:

- Summon and/or perform medical aid as detailed in section 4.10.
- Notify and brief their supervisor immediately or as soon as practical. If the immediate supervisor is unavailable, another supervisor or commander shall be notified.
- Inspector(s) employing the use of force shall complete and submit an Inspector's Report to his/her immediate supervisor prior to the end of the workday. In their reports, Inspector(s) employing the use of force shall document the original reason for Inspector presence at the scene; the circumstances that resulted in the use of force; and a detailed description of the force used.
- Inspector(s) witnessing the use of force shall also complete and submit an Inspector's Report to his/her immediate supervisor prior to the end of the workday. In their reports, Inspector(s) witnessing the use of force shall provide a detailed description of their observations of the force used.

b. Supervisors' Responsibilities:

- Respond to the location of the use of force incident, unless community unrest or other conditions make such response impracticable.
- Secure and manage the scene, coordinating the apprehension of the suspect, if still outstanding.
- Ensure uninvolved Inspectors conduct a scene canvas in an effort to identify and obtain statements from other witnesses in the proximity of the use of force incident.
- Ensure digital photographs are taken of the physical condition of the subject and involved Inspector(s), to record the presence or lack of injuries, the location of the use of force incident and other relevant evidence.
- No later than seven (7) calendar days following the incident, review all Inspector Report(s), statements, and any other available evidence to determine if the use of force was within policy, and provide the determination to the Assistant Chief of Inspectors.
- The Assistant Chief of Inspectors, upon review of the less lethal use

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of force incident, may elect to convene a Board to review the incident (as detailed in 4.11.3.c. below).

4.11.3. Deadly Force. Preliminary and follow-up investigations involving deadly uses of force employed by Inspectors shall ultimately be turned over to the agency having law enforcement jurisdiction at the location in which the use of force occurred. Nevertheless, the Office's reporting and investigation responsibilities for deadly force incidents are as follows:

a. Inspectors' Responsibilities:

- Inspectors involved in the use of deadly force shall provide a Public Safety Statement to the first responding supervisor and/or commander.
- Inspectors involved in the use of deadly force shall refrain from discussing the incident with others, with the exception of discussions needed to apprehend the outstanding suspect(s) and assist with the investigation.
- Inspectors involved in the use of deadly force shall be allowed to choose their own peer support Inspector.
- Inspector(s) witnessing the use of force shall also refrain from discussing the incident with others, with the exception of discussions needed to apprehend the outstanding suspect(s) and assist with the investigation. When directed to do so, witness Inspector(s) shall respond from the incident location to the designated interview location (Witness Inspector(s) will be interviewed in lieu of writing an Inspector's Report).
- Inspector(s) who are either at the scene of the use of force, or subsequently respond to the scene of the use of force, but who neither used the force nor witnessed the force, shall assist in the preliminary investigation at the scene of the incident. Upon relief, such Inspector(s) shall complete and submit an Inspector's Report to his/her immediate supervisor prior to the end of the workday.

b. Supervisors' Responsibilities:

- Respond to the location of the use of force incident.
- Obtain Public Safety Statement from Inspector(s) who used deadly force.
- Secure and manage the scene, until properly relieved by peace officers from the jurisdiction in which the use of force occurred.



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- Ensure Inspector(s) who employed the force are separated and each assigned non-witness Inspector(s), to provide peer support. Peer support Inspectors shall be directed to transport their involved Inspectors from the incident location to the designated interview location (this transportation should be accomplished as soon as reasonably possible). The firearms of Inspector(s) who employed the force should not be recovered at the incident scene and later at the Office.
  - Make the following telephonic notifications: Watch Commander in the jurisdiction in which use of force was employed, Chief of Inspectors and Assistant Chief of Inspectors. The Chief of Inspectors, or his designee, shall be responsible for making the necessary additional notifications.
- c. Chief of Inspectors/Commanders' Responsibilities:
- Coordinate with commanders of law enforcement having jurisdiction at the location in which the use of force occurred. Provide support to their preliminary and follow-up investigation as necessary.
  - Place the Inspector(s) who employed the use of force on at least three (3) days of paid administrative leave, or whatever reasonable amount of time the Inspector(s) require to recover from the incident.
  - Assign an Inspector of a rank at least one grade higher than that of the Inspector(s) who employed the use of force to conduct an administrative investigation of the incident.
  - Provide a management referral to a designated licensed mental health professional to any Inspector(s) using force or witnessing the same. Advise the applicable Inspector(s) that attendance is mandatory.
  - No later than sixty (60) calendar days following the completion of the administrative investigation of the incident, the Chief of Inspectors shall convene a Board to review the incident, and publish findings no later than thirty (30) days following the completion of the Board hearings. Findings should minimally include: whether or not the deadly use of force was within policy; any identified policy and/or training issues; and any recommendations for awards or disciplinary action.

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## 4.12. Discharge of Firearm

- 4.12.1. Inspectors shall consider their surroundings and potential risks to bystanders, to the extent reasonable under the circumstances, before discharging a firearm.
- 4.12.2. Inspectors who discharge a firearm, whether in the performance of their duty or accidentally, whether on or off-duty shall, as soon as possible, report the discharge to the Chief of Inspectors via the chain of command. The reporting shall include all details of the incident.
- 4.12.3. An accidental weapon discharge on the range shall be reported to the Range Master.
- 4.12.4. A firearm shall not be discharged in a negligent manner.

## 4.13. State Mandated Use of Force Reporting

- 4.13.1. In accordance with California Penal Code Section 12525.2 (a), the Chief of Inspectors or Assistant Chief of Inspectors shall report annually at the beginning of each calendar year to the California Department of Justice (DOJ) the following:
  - Any use of force incident to include any shooting of a civilian by an Inspector or any incident of an Inspector being shot by a civilian.
  - Any use of force by an Inspector against a civilian or use of force by a civilian against an Inspector, resulting in serious bodily injury or death.
- 4.13.2. The report to DOJ shall include the following information:
  - Date/time and location of the incident.
  - Gender, race, age of the individual shot, injured or killed.
  - Type of force used against the Inspector, civilian or both.
  - Number of Inspectors or civilians involved in the incident.
  - A brief summary of the incident.

## 4.14. Use of Force Training Requirements

- 4.14.1. Inspectors shall receive periodic use of force policy update training, as well as related and complementary perishable skills training in support of this policy.

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4.14.2. Inspectors will be required to demonstrate their knowledge, understanding, and proficiency in the subject matter presented during such training by successfully completing appropriate written tests and/or scenario exercise evaluations. Required training courses/topics are as follows (training frequency shall be every 18 months, unless otherwise specified):

- a. Use of force policy/legal updates.
- b. Firearms training (quarterly).
- c. Less lethal force training (semi-annually).
- d. Life-saving training (annually).
- e. De-escalation techniques and tactics.
- f. Guidelines regarding vulnerable populations: Children, elderly persons, people who are pregnant, and people with physical, mental, and developmental disabilities.
- g. Implicit/explicit bias and cultural competency.
- h. State required reporting requirements.

## 5. FIREARMS POLICY

### 5.1. Handling and Storage

- 5.1.1 Any unattended firearm left in a desk, file cabinet, or similar location shall be secured properly.
- 5.1.2 Firearms shall not be displayed, exhibited, or handled, in any manner that could be determined to be unsafe, in poor judgment, or threatening.
- 5.1.3 Firearms shall not be “dry fired” in any office, restroom, or similar area not authorized for such purpose.
- 5.1.4 At their discretion, Inspectors may temporarily store their firearm in their county vehicle, as long as they do so in compliance with 25140 PC, and the firearm is removed from the vehicle as soon as reasonably possible. A firearm shall not be stored in a county vehicle overnight.
- 5.1.5 All Inspectors' firearms shall be cleaned on a regular basis and maintained in good working order at all times.

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## **5.2. Firearm Purchases, Specifications and Qualifications**

- 5.2.1. All Inspector purchased firearms for duty use shall be of a specification authorized by the Chief of Inspectors; that is, of a caliber no smaller than 9mm, and from a reputable manufacturer (as determined by the Range Master).
- 5.2.2. All letters authorizing the purchase of a specific type of firearm shall be issued by the Assistant Chief of Inspectors.
- 5.2.3. With the exception of aftermarket Night Sights, no modifications from original equipment manufacturer specifications shall be made to duty firearms without the written permission of the Range Master.
- 5.2.4. Inspectors who purchase a new duty firearm shall successfully pass a Range Master approved firearms qualification prior to being allowed to carry this firearm on duty.
- 5.2.5. All Inspectors shall successfully pass a Range Master approved firearms qualification on an annual basis.

## **5.3. Sale of Firearm**

- 5.3.1. Any sale of a firearm by an Inspector shall comply with current laws regarding firearms sales and transfers.

## **5.4. Off-Duty Firearm**

- 5.4.1 Inspectors shall be proficient in the safe handling and use of their off-duty firearm, if different from their duty firearm. However, the Alameda District Attorney's Office takes no responsibility for Inspectors' off-duty firearms.

## **6. AEROSOL OLEORESIN CAPSICUM (OC SPRAY)**

### **6.1. OC Spray**

- 6.1.1 OC is an aerosol irritant authorized for use by Inspectors of the Alameda County District Attorney's Office. Inspectors may carry and use OC spray only after completing required training.
- 6.1.2 Inspectors may carry personally owned OC spray meeting the following criteria:
  - a. Must be manufactured by First Defense.
  - b. Must be Models MK-4, MK-6 or MK-8.

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- 6.1.2. OC spray shall be stored in a safe and secure condition. When carried on one's person, the OC spray should be concealed from the view of a potential attacker, yet in a position allowing immediate deployment, whenever possible.
- 6.1.3. If a local law enforcement agency is not present, every effort shall be made to contact them as soon as practical to inform them of the situation and prior to transporting any contaminated subjects from the scene. Immediately after notifying local law enforcement, the Inspector shall notify their immediate supervisor.
- 6.1.4. All OC spray contaminated subjects should be transported via a cage police vehicle. In the event a cage vehicle is unavailable, use of a county vehicle is authorized.
- 6.1.5. Whenever OC spray is used for any reason, other than formal training, its use must be clearly documented in an Inspector's report. In the event of an arrest, a report shall be completed in a timely manner. The reports shall be forwarded to the Chief of Inspectors through the chain of command.
- 6.1.6. Carrying OC spray aboard an aircraft is prohibited by FAA regulations.
- 6.1.7. After any use, the OC spray canister, whether department issued or personally owned, shall be turned in to the Assistant Chief of Inspectors. A new department issued canister will be issued to the Inspector.

## 7. VEHICLE POLICY

### 7.1. Use of County Vehicle

- 7.1.1. It shall be the responsibility of all Inspectors to familiarize themselves with the County ordinance entitled "USE OF COUNTY-OWNED MOTOR VEHICLE."
- 7.1.2. All Inspectors shall maintain and carry a valid California Driver's License. Any Inspector who does not have a valid license, for any reason, shall immediately notify the Chief of Inspectors.
- 7.1.3. An assigned county vehicle shall only be used for conducting official county business. The Inspector and vehicle shall be available on a 24-hour basis. This availability shall be for both inter and intra-unit 24-hour response as directed by the District Attorney, Chief Assistant District Attorney, or the Chief of Inspectors.
- 7.1.4. The vehicle assigned to each Inspector shall be equipped with a police radio, red emergency light, police siren, first aid kit, fire extinguisher and disaster kit. It shall also be designated an emergency vehicle.

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- 7.1.5. Vehicles will be assigned according to the needs of the Inspectors' Division and final approval of the Chief of Inspectors.
- 7.1.6. All Inspectors shall keep their assigned county vehicle clean and mechanically safe. The vehicle shall be serviced according to the predesignated dates or mileage set by the county garage. All vehicles shall be operated in a safe and lawful manner. Smoking in county vehicles is prohibited.
- 7.1.7. All county vehicles shall be afforded the maximum protection against theft, vandalism, damage, and the elements, by placing such vehicle in a garage or carport, if available. The minimum of such protection shall be assurance the vehicle is off-street parked when not in use.
- 7.1.8. The Inspector assigned to a designated vehicle is the only authorized driver of that vehicle. If the assigned Inspector is not using their vehicle, or for some reason wants to authorize another Inspector to use it, they may do so. Assigned Inspectors may authorize a Deputy District Attorney to use their vehicle for official business.
- 7.1.9. Inspectors cannot authorize any other person (including support personnel) to use their vehicle. Any questions shall be directed to the Captain of Inspectors.
- 7.1.10. Inspectors who are off-duty for more than two (2) consecutive workdays shall turn their car in to the county garage. The vehicle shall be parked on the 9<sup>th</sup> floor of Alco Park Garage, unless instructed otherwise. The keys shall be delivered to the "vehicle coordinator." Any variance in this policy shall require prior approval by the Chief of Inspectors or the Captain of Inspectors.
- 7.1.11. Inspectors who are medically designated to a "restricted duty" status are not to be assigned to or operate a county vehicle. The assigned vehicle shall be parked at Alco Park Garage, in accordance with **Section 6.1.10**.
- 7.1.12. Each set of keys to an assigned county vehicle shall have a vehicle number tag attached to the key ring. The vehicle number tag shall not be removed.

## 7.2. Vehicle Maintenance

- 7.2.1. All emergency equipment shall be properly maintained. Any repairs shall be sought in a timely manner.
- 7.2.2. Any mechanical defect shall be reported to the "vehicle coordinator" at the Rene C. Davidson Courthouse and the supervisor of the county garage, as soon as possible, to ensure proper maintenance.

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- 7.2.3. Any use of another Inspector's vehicle (i.e., vacation), while awaiting repairs or maintenance, shall be authorized by the assigned "vehicle coordinator" at the Rene C. Davidson Courthouse.

## 7.3. Radio Repair/Installation

- 7.3.1. All radio repairs or installations shall be arranged by the Captain of Inspectors or the designee. All records pertaining to radio repairs or installations shall be maintained by the Captain of Inspectors.
- 7.3.2. Each Inspector who has received radio repairs or installation shall sign County GSA form 160-3b at the radio shop, and return the gold copy to the Captain of Inspectors.

## 7.4. Vehicle Check Out

- 7.4.1. Prior to checking out any vehicle at the county garage, the "vehicle coordinator" shall be consulted. The "vehicle coordinator" shall designate which vehicle will be used.
- 7.4.2. In the event a vehicle is not available, the "vehicle coordinator" may authorize the use of an "E" plate vehicle. The garage supervisor shall be contacted by the "vehicle coordinator" authorizing same. Beginning and ending mileage shall be noted on the assigned computer card issued by the garage and returned after use of the vehicle.
- 7.4.3. At no time shall a county vehicle be removed from the county garage without the approval of the "vehicle coordinator" or authorized by the Captain of Inspectors.
- 7.4.4. Any county vehicle checked out by a Deputy District Attorney for "overnight" use shall be authorized by one of the designated personnel.

## 7.5. Gasoline Credit Card

- 7.5.1. The Captain of Inspectors shall maintain a county gasoline credit card for authorized use on extended "out of county" investigations.
- 7.5.2. The county garage will maintain a gasoline credit card for the same purpose.
- 7.5.3. All Inspectors shall seek authorization for use of the gasoline credit card through their immediate supervisor. The request for authorized use shall include destination, time period and purpose.

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- 7.5.4. All Inspectors shall return the gasoline credit card to the Captain of Inspectors as soon as possible upon their return. If the county garage credit card was authorized, then it shall be returned to the garage as soon as possible.

## 7.6. Airport Parking Pass

- 7.6.1 A Captain of Inspectors may arrange an airport parking pass for the purpose of designated parking at the Oakland Airport during the performance of official business.
- 7.6.2 The airport parking pass shall be displayed on the rear-view mirror of the county vehicle while parked in the designated area.

## 7.7. Emergency Repairs

- 7.7.1. The county garage will maintain an "on-call" mechanic twenty-four (24) hours a day, seven days a week. The "on-call" mechanic can be reached through Sheriff's radio after hours, weekends, or holidays. During normal work hours the mechanic can be reached through the county garage.
- 7.7.2. In the event emergency repairs are necessary, and/or the "on-call" mechanic cannot be reached, the following procedure shall be used:
- a. If possible, secure and lock the vehicle in a safe location and notify the garage on the next workday;
  - b. If necessary, and all attempts to reach the "on-call" mechanic have failed, purchase the needed part (i.e., fan belt, hose, tire, etc.) and save the receipt. The receipt shall be submitted to the supervisor of the county garage;
  - c. If out of county, the gasoline credit card may be used for "discretionary" repairs. The receipt shall be submitted to the supervisor of the county garage;
  - d. If possible, whether in or out of the county, contact the supervisor of the county garage prior to any repairs;
  - e. If none of the above is possible, the vehicle shall be towed to the nearest county facility or other location for safekeeping. The supervisor of the county garage shall be contacted at the earliest possible time.

## 7.8. Vehicle Accidents/Damage

- 7.8.1. All accidents and/or damages involving a county vehicle shall be reported



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immediately to an Inspector's supervisor. The supervisor shall notify the chain of command ensuring the Chief of Inspectors is advised.

- 7.8.2. All county vehicle accidents shall be reported on County form 140-C-3 entitled "VEHICLE ACCIDENT OR PROPERTY DAMAGE REPORT" within 24-hours of the accident. Form 140-C-3 shall be completed and submitted along with five copies to the Inspector's immediate supervisor. The report and copies shall be delivered to the Captain of Inspectors within 24-hours following the accident.
- 7.8.3. An Inspector involved in an accident while on duty shall advise the investigating traffic officer, if any, that the County is "self-insured," the vehicle is an "emergency vehicle," and the driver (Inspector) is a peace officer.
- 7.8.4. An Inspector involved in an accident which renders the county vehicle "not drivable", shall notify the supervisor of the county garage, or in their absence, the assigned mechanic on duty, in order to arrange tow and storage.

### **7.9. County Vehicle Parking**

- 7.9.1. Inspectors shall park their county vehicles in the designated areas of Fallon, Oak, 12<sup>th</sup> or 13<sup>th</sup> Streets. A District Attorney's Office county vehicle shall not be parked in any bus zone, red zone, fire hydrant zone, or other designated "no parking" area around the Rene C. Davidson Courthouse.
- 7.9.2. All vehicles needing service shall be parked in the facility where the service is to occur. The vehicle keys shall remain with the car.
- 7.9.3. All vehicles left at the county garage for vacation, exchange, or for any other purpose, shall be parked on the 9th floor of the Alco Park Garage. The keys shall be delivered immediately to the "vehicle coordinator." The Inspector shall advise the "vehicle coordinator" of their return. Any deviation from this parking policy shall be discussed with the Captain of Inspectors.
- 7.9.4. It shall be the responsibility of each Inspector to familiarize themselves with all parking policies.

### **7.10. Vehicle Driver Card**

- 7.10.1. All Inspectors shall be assigned a vehicle driver card (blue) by the Captain of Inspectors at the time of their appointment to the District Attorney's Office. The vehicle driver card shall be used to obtain county gasoline at one of the designated automatic fuel dispensing facilities operated by the county or to check out an "E" plate vehicle after authorization has been

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granted.

7.10.2. Inspectors shall be responsible for the safekeeping of their assigned card and shall be required to surrender it at the end of their appointment as an Inspector. All losses of the card shall be reported to the Captain of Inspectors.

## **7.11. Vehicle Card**

7.11.1. All assigned vehicles shall have a vehicle card (green) issued with the vehicle. The vehicle card shall remain in the car if it is left for service for an extended period of time (vacation), or if the vehicle is surrendered for any purpose.

7.11.2. If a vehicle card is lost, the assigned Inspector shall notify the Captain of Inspectors.

## **7.12. Proof of Insurance**

7.12.1. Each county vehicle shall carry a "proof of liability" insurance card. The card shall be carried in the vehicle glove box. The cards shall be available through the Captain of Inspectors or the county garage supervisor.

## **7.13. Change of Vehicle**

7.13.1. The vehicle assigned to an Inspector shall not be changed unless specifically authorized by the Captain of Inspectors.

7.13.2. An authorized vehicle change shall include new vehicles to the fleet, the surveying of fleet vehicles, long term repairs, or authorized budget changes of vehicles as directed by the Chief of Inspectors.

## **7.14. Vacation Storage**

7.14.1. All vehicles turned in for vacation or time off shall be delivered to the 9<sup>th</sup> floor of the Alco Park Garage on the last working day. The vehicle may not be picked up until the first day of return unless authorized by the Captain of Inspectors.

7.14.2. A vehicle shall not be scheduled for service while an Inspector is on vacation or other time off. All vehicle maintenance and repairs shall be conducted while an Inspector is working.

## **7.15. Vehicle Citations**

7.15.1. The Inspector assigned to a county vehicle shall be responsible for any citations issued. Any citations issued to an Inspector while using a county vehicle shall be reported to the Captain of Inspectors.

# INSPECTORS' DIVISION POLICY MANUAL

## 7.16. Vehicle Pursuits

(Refer to Inspector Info Policy Page)

## 7.17. Evidence Vehicles

7.17.1. Long-term vehicle storage (more than 30 days) for evidentiary purposes shall not be authorized, absent unusual or otherwise compelling circumstances. If storage becomes essential, the responsible Inspector shall make arrangements to store the vehicle at a county or city owned facility to reduce expenses and notify the Captain of Inspectors.

7.17.2. Vehicles stored as evidence "on behalf of the District Attorney" beyond the period of initial police impoundment shall require written approval of the Chief of Inspectors, Division Chief, or Office Branch Manager. A copy of the written approval shall be forwarded to the Chief of Inspectors.

7.17.3. Storage in excess of 30 days, or accumulated fees in excess of \$150.00, shall not be honored without the written approval of the District Attorney.

## 8. EXPENSE POLICY

### 8.1. Special Departmental Expense

8.1.1. DA form 026 entitled "SPECIAL DEPARTMENTAL EXPENSE" (blue tag) shall be used by all Inspectors when recovering funds used "in the detection of crime." The form shall be completed in full, signed, and receipts attached, if required.

8.1.2. The monies for the Special Departmental Expense shall be maintained by the Trial Captain of Inspectors at the direction of the Chief of Inspectors. The Captain of Inspectors shall maintain records of all transactions.

8.1.3. Any expense in excess of \$50.00 shall require a prior approval by the Assistant District Attorney in charge of trial preparation, or the Chief of Inspectors. The prior approval shall be requested using DA form entitled "PRE-APPROVAL WORKSHEET."

8.1.4. Reimbursement for meals or other expenses incurred by an Inspector shall be itemized on DA form 026 and submitted to their immediate supervisor, who will forward the expense form to the Captain of Inspectors.

8.1.5. An Inspector may be reimbursed for meals while working early, late, or on days off within the county at a dollar rate published by the County Auditor.

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Contact your chain of command for the current rate schedule.

- 8.1.6 All Inspectors shall request prior approval for “out of county” investigations from their immediate supervisor. Inspectors shall inform their supervisor of their destination, purpose, and estimated return. Any overnight requests shall be approved through the chain of command.
- 8.1.7 Any request for “out of county” travel for an investigation will be made in a timely manner.
- 8.1.8 Any reimbursement may be subject to audit at any time by the county or this Office. The audit may require more specific documentation and clarification regarding the expense.

## 8.2. Witness Expense Claim

- 8.2.1. DA form entitled “WITNESS EXPENSE CLAIM” (green tag) shall be used by all Inspectors when itemizing authorized monies given to a witness as a result of an ongoing trial, hearing, preliminary examination, etc. The form shall be completed in detail indicating the witness’ information and signature. **This form shall be used for hardship cases only.** Inspectors should discuss the reason for the “hardship” with their immediate supervisor prior to submitting the form to the Captain of Inspectors for dispersal.
- 8.2.2. DA form 110-102 “CLAIM FOR WITNESS FEES AND EXPENSES” (white tag) shall be used in all cases where a witness is to be reimbursed for authorized expenditures such as witness fees, mileage, parking, meals, lodging, per diem, etc. This form shall be completed in detail by the Inspector, signed by the claimant, and submitted to the Captain of Inspectors. The form will be forwarded to the Auditor/Controller, who will reimburse the witness.

## 8.3. Travel Expense (In-State)

- 8.3.1. Inspectors shall be allowed travel expenses for authorized travel representing the Office of the District Attorney. The travel may be case related or for training. Receipts shall be required for this type of travel. Itemization for office authorized travel expenses shall be completed using county form 110-30 entitled “PERSONAL EXPENSE CLAIM” and submitted to the Auditor/Controller.
- 8.3.2. Travel within the nine Bay Area counties during normal work hours and days shall be authorized by the immediate supervisor. The travel shall be case related and required in the course of the case investigation. Travel for any other purpose shall require approval from the chain of command.

# INSPECTORS' DIVISION POLICY MANUAL

## 8.4. Travel Expense (Out-of-State)

8.4.1 Inspectors shall be allowed travel expenses for authorized training out-of-state representing the Office of the District Attorney. The travel shall be for job related training. Authorization from the County Administrator's Office shall be required. County form entitled "Out-of-State Travel Approval Request" shall be completed and forwarded through the chain of command.

## 9. TRAINING POLICY

### 9.1. Training Responsibility

9.1.1. It shall be the responsibility of each Inspector to remain current and informed on legal issues, safety issues, and advanced investigative techniques. This shall be accomplished by attending training relevant to present assignment and the goals of the Inspectors' Division.

### 9.2. Prior Approval

9.2.1. Inspectors shall obtain prior approval through the chain of command before any Training Incentive Program (T.I.P) credited training is commenced. The request for approval shall include a copy of the course content, location, date and time, sponsor of the training, and hours or units.

9.2.2. All on duty training shall be job/assignment related and require the approval of the chain of command.

9.2.3. The approval of training shall be at the discretion of the chain of command. The availability of the Inspector, workload of the Inspector, and other related information shall be considered prior to approval.

9.2.4. An Inspector may be required to pay any fees related to the training, unless they are being sent by the Office.

9.2.5. All Inspectors shall use DA form entitled "TRAINING APPROVAL FORM" to seek prior approval. The form shall be submitted to their immediate supervisor.

9.2.6. Authorization to use a county vehicle shall be obtained through the chain of command.

9.2.7. Any deviation in this policy shall be discussed with the chain of command and approval request from the Chief of Inspectors.

### 9.3. Training Incentive Program (T.I.P.)

## INSPECTORS' DIVISION POLICY MANUAL

- 9.3.1. The Training Incentive Program (T.I.P.) is voluntary. Inspectors are not required to participate in the program. If an Inspector chooses not to participate in T.I.P., he/she is still required to adhere to section 9.1.1.
- 9.3.2. Sworn investigative personnel who choose to participate in the T.I.P., must complete a minimum 30 hours of training per fiscal year (fiscal year is July 1<sup>st</sup> through June 30<sup>th</sup>). The 30-hour minimum must be performed during "off-duty" time.
- 9.3.3. Training received during the fiscal year will only be credited in that fiscal year.
- 9.3.4. Any "on duty" training of eight or more hours requires a Leave of Absence form for Educational Leave (with pay).
- 9.3.5. All Inspectors shall obtain prior approval before they engage in any T.I.P. training. DA form entitled "TRAINING APPROVAL FORM" shall be used to seek approval. The completed form shall be submitted to the Training Captain for approval via the chain of command.
- 9.3.6. All training within T.I.P. shall be in compliance with the guidelines and content requirements as determined by the Chief of Inspectors, Captain of Inspectors, and/or the County. All training must be work related.
- 9.3.7. T.I.P. training shall not be approved if it does not meet the standards required by the Inspectors' Division.
- 9.3.8. All T.I.P. records are subject to audit by the County to ensure compliance and training content.
- 9.3.9. The T.I.P. is a fringe benefit provided by the County. It shall be the responsibility of each Inspector to ensure the integrity of the fringe benefit by adhering to all guidelines and policies.
- 9.3.10. Newly appointed Inspectors may not accrue T.I.P. training hours until they have completed their probationary period (six months). During their probationary period, newly appointed Inspectors may attend training, but the training hours will not be credited towards T.I.P.
- 9.3.11. Newly appointed Inspectors may begin accumulating T.I.P. hours once they have completed probation.
- 9.3.12. Newly appointed Inspectors are not eligible to receive T.I.P. pay until they have completed 12 months of service and have accumulated the required T.I.P. hours.

# INSPECTORS' DIVISION POLICY MANUAL

9.3.13. All Inspectors must re-qualify for T.I.P. each fiscal year.

## 10. RANGE POLICY

### 10.1. Cardinal Rules of Firearm Safety

10.1.1. All Inspectors shall adhere to the following rules whenever handling firearms:

- a. Treat all firearms as if they are loaded.
- b. Keep your finger off the trigger until you are ready to fire.
- c. Never point at anything you are not willing to destroy.
- d. Be aware of your target and its backdrop.

### 10.2. Range Safety

- 10.2.1. The Range Master shall be recognized as the supervisor of the Range and all events occurring at that location. Firearms Instructors assisting on the Range shall do so at the direction of the Range Master. The Range Master shall have the authority to dismiss from Range training any violator (regardless of rank) of this safety policy, and any other safety rules the Range Master deems appropriate for a particular Range training event. In the event an Inspector is dismissed from Range training pursuant to this policy, the Range Master shall immediately notify the Assistant Chief of Inspectors and follow-up with a memorandum to the same, explaining the circumstances of the incident.
- 10.2.2. Persons shall not be allowed on the Range if they have consumed alcohol or drugs. Horseplay and/or emotional outbursts are prohibited. Cell phone use is also not allowed.
- 10.2.3. All Inspectors and other participants on the Range shall wear authorized ear and eye protection.
- 10.2.4. Only approved firearms and ammunition shall be allowed on the Range.
- 10.2.5. The unloading and loading of firearms shall only be done in areas designated by the Range Master or the Firearms Instructor.

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- 10.2.6. An Inspector's firearm shall not be unholstered unless the Inspector has been authorized to do so by the Range Master or a Firearms Instructor. Furthermore, Inspectors shall not discharge their firearm unless directed to do so by the Range Master or the Firearms Instructor.
- 10.2.7. A firearm shall not be "dry fired" unless directed to do so by the Range Master or the Firearms Instructor.
- 10.2.8. Firearm malfunctions, ammunition problems, and other similar safety issues shall be immediately brought to the attention of the Range Master or the Firearms Instructor, and in a safe manner.
- 10.2.9. All Inspectors shall attend their designated firearms training dates/times. Any Inspector having a scheduling conflict shall notify their chain of command as far in advance as possible, and only be excused upon the approval of their Captain of Inspectors or above.

## 11. CORRESPONDENCE POLICY

### 11.1. Out-Going Correspondence

- 11.1.1. All out-going correspondence prepared on District Attorney letterhead shall be job related.
- 11.1.2. All out-going correspondence shall close with the name of the District Attorney followed by the notation "By:" The name and title of the person sending the correspondence shall follow the notation "By:"
- 11.1.3. A copy of all out-going correspondence shall be maintained for future reference.
- 11.1.4. All commendations shall be issued from the Office of the District Attorney or the Chief of Inspectors. Requests for letters of commendation shall be submitted through the chain of command.
- 11.1.5. All out-going correspondence shall be reviewed by an Inspector's immediate supervisor prior to being sent.
- 11.1.6. All written reports to be released outside of this Office shall be reviewed by an Inspector's immediate supervisor. The circumstances requiring a written report to be forwarded shall be discussed with the chain of command prior to release.

### 11.2. In-Coming Correspondence

- 11.2.1. All in-coming mail shall contain the Department title and name of person who is to receive the correspondence.



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11.2.2. Inspectors shall not receive personal mail (i.e., catalogs, books, newsletters) at the Office.

11.2.3. Any mail received by the Office of the District Attorney may be opened for the purpose of proper distribution.

## 11.3. Written Reports

11.3.1. All written reports shall be submitted in a narrative form detailing the event in a specific, clear, and grammatically correct manner.

11.3.2. All written reports shall be completed as soon as possible and submitted to the immediate supervisor for review.

11.3.3. All reports and memorandums shall be initialed or signed by the Inspector who prepared same.

## 12. BIASED BASED POLICING

### 12.1. Definition

12.1.1. Biased policing means the practice of singling out or treating differently any person on the basis of race, ethnicity, national origin, religion, age, gender, gender identity, gender expression, transition, sexual orientation, mental disability, physical disability, citizenship or socio-economic status.

12.1.2. Inspectors shall not engage in biased-based policing as this undermines the relationship with the public and is contradictory to the values of the District Attorney's Office.

## 13. SEXUAL HARASSMENT PREVENTION

### 13.1. Statutory Authority

Title VII of the Civil Rights Act of 1964 as amended.

U. S. Equal Employment Opportunity Commission Regulations 29 CFR, Part 1604.11.

Federal Employment Housing Act 12940 only as to State.

#### 13.1.1 General Statement

Sexual Harassment is any conduct or communication (visual, physical, verbal or written that includes the use of e-mail or other electronic devices) of a sexual nature which is unwanted, deliberate or repeated and creates a hostile, offensive or intimidating work environment, and/or affects a person's ability to perform work.

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Example: Within the county government, a supervisory employee who uses implicit or explicit coercive sexual behavior to control, influence, or affect the career, salary, or the job of an employee is engaging in sexual harassment. Similarly, an employee of the county who behaves in this manner in the process of conducting county business is engaging in sexual harassment. Persons covered are all who are employed by the county including: civil service, temporary, provisional, exempt, special employment employees, consultants, volunteers and persons providing services under personal services contracts.

## 13.1.2. Policy

It is the policy of the Alameda County Board of Supervisors that sexual harassment is unacceptable employee conduct and will not be condoned or tolerated. Sexual harassment is an unlawful employment practice prohibited by both State and Federal Law. It debilitates morale and interferes in the work productivity of its victims and their co-workers. All employees must be allowed to work in an environment free from unsolicited and unwelcome sexual overtures.

Sexual harassment is deliberate or repeated unsolicited verbal comments, gestures or physical contact of a sexual nature, which are unwelcome.

Any employee who participates in deliberate or repeated unsolicited verbal comments, gestures or physical contact of a sexual nature, which are unwelcome, is also engaging in sexual harassment.

County officials and employees who violate this policy may be subjected to firm disciplinary action up to and including dismissal.

Prevention is the best tool for the elimination of sexual harassment. All county agencies and departments shall take the initiative to inform all employees of the policy statement and of the sanctions. They shall also inform all employees of how a complaint of sexual harassment should be handled. They shall express strong disapproval of sexual harassment and develop methods to improve awareness of all concerned.

However, it is not the intent of the County of Alameda to regulate the social interaction or relationships freely entered into by county employees.

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## 13.1.3. Responsibility of Agency/Department Heads and Directors

13.1.3.1. Ensure managers and supervisors are trained and practice sexual harassment prevention and corrective procedures as established in the Affirmative Action Plan.

13.1.3.2. Ensure all employees receive sexual harassment prevention training and that managers and supervisors provide a sexual harassment free workplace.

## 13.1.4. Managers and Supervisors

13.1.4.1. Take all reasonable steps to ensure a work environment free from sexual harassment through prevention and training.

13.1.4.2. Once supervisors/managers become aware that an allegation of sexual harassment has been made, take immediate corrective action as established in the Affirmative Action Plan, when sexual harassment occurs.

13.1.4.3. Forward formal complaints to the Diversity Programs Office in a confidential and timely manner.

## 13.1.5. Diversity/Americans with Disabilities Act (ADA) Coordinators

13.1.5.1. Assures that informal sexual harassment complaints are investigated in a timely, thorough, impartial and confidential manner as established by the County's Discrimination/Harassment Complaint Procedures.

13.1.5.2. Serve as the Agency/Department resource for managers, supervisors, employees and investigators regarding equal opportunity and sexual harassment issues.

13.1.5.3. Assists the Diversity Programs Office to ensure that formal sexual harassment complaints are investigated in a timely, thorough, impartial and confidential manner as established by the County's Discrimination/Harassment Complaint Procedures.

## 13.1.6. County Administrator's Office

13.1.6.1. Through the Diversity Programs Office, manages the county's Discrimination/Harassment Complaints Program and serves as the county's resource for sexual harassment prevention and related issues.

13.1.6.2. The Diversity Programs Office ensures that formal

# INSPECTORS' DIVISION POLICY MANUAL

sexual harassment complaints are investigated in a timely, thorough, impartial and confidential manner as established by the County's Discrimination/Harassment Complaints Procedures.

## 13.1.7. Employees

13.1.7.1. Comply with this Policy and employees are encouraged to report sexual harassment incidents to management, the Agency/Department Diversity/AA Coordinator, the Personnel Officer or the Diversity Programs Office.

## 14. HOMICIDE DUTY POLICY

### 14.1. Homicide Duty Responsibility

- 14.1.2. All Inspectors assigned to Homicide Duty shall assume the on-call status at 0800 hours on Friday of each week. It shall be the responsibility of the Inspector to deliver the Homicide Kit to their on-call replacement. The standby shall be on a 24-hour basis. A Lieutenant of Inspectors will coordinate the Homicide Duty List.
- 14.1.3. All Inspectors shall notify the Lieutenant of Inspectors in writing of any change in homicide duty prior to the change. It shall be the responsibility of the Inspector to arrange proper relief, notification to Sheriff's radio, and the Deputy District Attorney assigned with the Inspector.
- 14.1.4. All reports regarding a homicide call-out shall be completed at the earliest possible time and submitted to the 9th floor support staff supervisor for processing.
- 14.1.5. All call-out log sheets shall be submitted to the Lieutenant of Inspectors each Friday by the on-call Inspector.
- 14.1.6. Any evidence (i.e., tapes, diagrams, or similar items) shall be entered into evidence at the District Attorney's Evidence Room located at the Rene C. Davidson Courthouse. The chain of custody shall be strictly adhered to and documented properly.
- 14.1.7. It shall be the responsibility of the on-call Inspector to ensure the Homicide Kit is properly stocked with tapes, admonition forms, statement forms and other needed items.
- 14.1.8. Homicide Duty Inspectors shall inform Sheriff's radio they have assumed the on-call duty and provide all information necessary to be contacted.

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- 14.1.9. It shall be the responsibility of the Homicide Duty Inspector to notify a member of the "Officer Involved Shooting Team" immediately after becoming aware of an incident involving the serious injury or death of an officer or of a citizen caused by the actions of an officer.
- 14.1.10. The Homicide Duty Inspector shall assume the "Officer Involved Shooting" investigation only after exhausting all means of contacting a member of the Team and notifying the Assistant Chief of Inspectors about the incident.
- 14.1.11. The Chief of Inspectors or the Captain of Inspectors shall be informed of the "Officer Involved Shooting" at the earliest practical time.

### **15. INTERNAL INVESTIGATIONS**

- 15.1. All complaints or allegations of Inspector misconduct shall be received, investigated and adjudicated. This policy includes both externally (i.e., citizen) and internally (i.e., whistleblower) generated complaints, regardless of whether such complaints are made anonymously. Furthermore, this policy recognizes that complaints or allegations may be filed from a variety of sources (i.e., in-person, phone, email, letter, etc.).
- 15.2. Whenever an Inspector becomes aware of a complaint/allegation of Inspector misconduct, that Inspector shall attempt to obtain the complainant's name/information, identity of the Inspector (the "subject") against whom the complaint is being made, and the nature of the complaint. The Inspector obtaining this information shall then forward the details to the subject's immediate supervisor.
- 15.3. Upon receipt of the details listed in 16.2 above, the immediate supervisor shall contact the complainant and determine if the complaint should be informally resolved (i.e., service complaints, issues of misunderstanding, etc.). If the complaint is not informally resolved, the immediate supervisor shall then take the complainant's statement and inform their next higher senior and the Assistant Chief of Inspectors that they will be initiating an internal investigation. The investigator shall then provide the complainant with a copy of their statement (per 832.7 PC), and the Assistant Chief of Inspectors shall give notice to the subject of the investigation (per Government Code Section 3303).
- 15.4. If at any point during the investigation the investigator identifies possible criminal violations, then the investigator shall immediately notify the Assistant Chief of Inspectors, who in turn shall coordinate a separate criminal investigation.
- 15.5. Incidents in which an Inspector uses deadly force shall be internally investigated. This administrative investigation shall not only examine whether or not the use of force was in compliance with policy, but shall do the same for the Inspector's other identified actions during the incident. The Assistant Chief of Inspectors is responsible for assigning this investigation to an Inspector whose rank is at least one level higher than the involved officer.
- 15.6. Internal investigations shall be documented in a Report of Investigation (ROI), which

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include recommended findings as to the complaint/alleged misconduct, as follows:

- Sustained: Evidence was sufficient to prove the allegations.
- Not sustained: Evidence was insufficient to either prove or disprove the allegations.
- Exonerated: The incident occurred, but was within policy.
- Unfounded: The allegation is false or not factual or the Inspector was not involved.

Upon completion, the ROI shall be forwarded up the chain of command to the Chief of Inspectors, for final approval (or modification) of the findings. Both the complainant and the subject shall be notified in writing of the approved findings within 30 days of their approval.

- 15.7. Internal investigations are personnel matters and are thus confidential. The results of such investigations are precluded from disclosure except as required by 832.7 PC and detailed in Section 26 of this policy.
- 15.8. Whenever an Inspector becomes aware of a complaint/allegation of misconduct by an attorney or professional staff in the Office, the Inspector shall perform the actions specified in 16.2 above. The immediate supervisor who subsequently receives the complaint information shall forward the same to the attorney's/ professional staff member's immediate supervisor, as well as the Assistant Chief of Inspectors.

## 16. PRISONER TRANSPORTATION

### 16.1. Caged Car

- 16.1.1. When feasibly possible, prisoner transports should be accomplished by utilizing the DA Inspectors' "cage car." If the cage car is not immediately available, Inspectors may transport their prisoner in their regularly assigned vehicle under the following circumstances:
  - a. The prisoner is cooperative.
  - b. The prisoner does not have a history of violence, resisting arrest or escape.
  - c. The prisoner shall be handcuffed behind their back and seat belted in.
  - d. When feasibly possible, the prisoner should be seated in the right rear seat.
  - e. A second Inspector or peace officer shall be in the rear seat with the prisoner.
  - f. The child door lock shall be activated.

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- 16.1.2. If the prisoner is uncooperative, has a history of violence, resisting arrest or escape, the Inspector shall transport in the cage car. If the cage car is unavailable, the Inspector should use ACSO or a local jurisdiction to make the transport.
- 16.1.3. When a prisoner (male or female) is being transported in an Inspector's car, they shall notify ACSO Dispatch and provide time and mileage. If the Inspector is out of county or out of radio range, the Inspector shall notify ACSO Dispatch via cell phone of their time and mileage.
- 16.1.4. When a prisoner is being transported from a custodial facility to court or from one custodial facility to another, i.e., state prison to county jail, the Inspectors shall utilize a cage car.
- 16.1.5. The DA cage car will be assigned to the SAFE Task Force on a regular basis unless it is needed by an Inspector. The Inspector shall make arrangements with the SAFE Task Force Supervisor to obtain the car.

### **17. HANDLING EVIDENCE**

#### **17.1. Chain of Custody**

- 17.1.1. The handling and receipt of all evidence shall be performed maintaining the chain of custody of each item. Each item shall be properly marked, logged and stored.
- 17.1.2. All trial evidence received from any source shall be immediately logged into the Evidence Room at the Rene C. Davidson Courthouse following the appropriate procedures.
- 17.1.3. Investigative evidence (including Grand Jury evidence) will be stored in an Evidence Room located at the respective DA office location, other designated secure facility, or location approved by the Chief of Inspectors.
- 17.1.4. The Inspector preparing a Superior Court case shall be responsible for the proper storage and logging of evidence related to the case. This shall include the preparing of the evidence "blue card."

#### **17.2. Evidence Viewing**

- 17.2.1. All evidence being viewed by a defense attorney, witness, or other persons not employees of this Office shall be accompanied by an Inspector or Evidence Room Manager during the entire viewing process. It shall be the responsibility of the Inspector to make arrangements with the Evidence Room Manager for the viewing of evidence.

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17.2.2. Any viewing of evidence by someone other than a Deputy District Attorney or Inspector of this Office shall require approval from the Captain of Inspectors, the Chief of Inspectors, the Chief Assistant District Attorney, or the District Attorney.

17.2.3. No one shall remove evidence from the Evidence Room without logging the item properly and being authorized to do so.

## **17.3. Release of Evidence**

17.3.1. Evidence shall only be released with a proper Court Order, the approval of the Deputy District Attorney handling the matter, or through Evidence Room procedures of destruction and/or release.

## **17.4. Criminal Offender Record Information**

17.4.1. All Criminal Offender Record Information (CORI) shall be destroyed after its use and an investigation has concluded. It is not sufficient to place photos, CII or FBI "rap sheets" into locked confidential bins. The CORI information shall be shredded to comply with Criminal Justice Information Services (CJIS) Security Policy 5.8.4, "physical media shall be destroyed by shredding or incineration."

## **18. GRAND JURY POLICY**

### **18.1. Grand Jury Case Preparation**

18.1.1. All cases being prepared for a Grand Jury shall be coordinated through the Lieutenant of the Special Operations Unit (SOU). The chain of command shall be notified of the matter prior to commencing any preparation.

18.1.2. It shall be the responsibility of the Inspector preparing a Grand Jury matter to ensure all evidence is properly marked, logged and stored.

18.1.3. It shall be the responsibility of the Inspector preparing a Grand Jury matter to follow-up on all booking procedures to ensure a defendant is not released after the dismissal of a Superior Court action. This shall include the hand delivery of any warrant to the ACSO warrant division.

18.1.4. Any Inspector handling a Grand Jury case shall coordinate through the Lieutenant of the SOU for the preparation of a warrant information sheet to accompany the arrest warrant in those matters with an out-of-custody defendant or one that is in-custody in another jurisdiction.

18.1.5. Alameda County cases involving in-custody defendants in the Alameda



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County Jail system, the original arrest warrant shall remain with the Superior Court Clerk's Office. A copy of the arrest warrant shall be hand delivered to the jail facility where the defendant is incarcerated.

18.1.6. The Inspector assigned to the Grand Jury case shall inform the Grand Jury support staff member of the defendant's PFN and CEN for charging purposes.

## **19. PRESS POLICY**

### **19.1. Press Interviews**

19.1.1. Inspectors shall not give interviews or information to the media without the prior approval of the District Attorney, the Chief Assistant District Attorney, or the Chief of Inspectors.

19.1.2. All Inspectors shall inform their supervisor of any requests made by the media for an interview. The supervisor will be informed in detail about the request.

19.1.3. It shall be the responsibility of the immediate supervisor to ensure the chain of command has been properly notified of all media interview requests.

19.1.4. Unless advised otherwise, all information released to the media shall be done by the District Attorney, the Chief Assistant District Attorney, or the Chief of Inspectors.

## **20. SPECIAL OPERATIONS, RISK ASSESSMENTS AND OPERATION PLANS**

### **20.1. Operation Plans**

20.1.1. Prior to the service of a search warrant or any specialized operation involving a Search or Arrest Warrant, Probation or Parole Searches, Cellular Telephone Tracking, Undercover Operations, Security Details, Large Scale EPT Operation, 290 Enforcement Operation, or any other planned operation, the case Inspector will complete an Alameda County District Attorney's Office Operation Plan. The plan will be submitted to his/her direct supervisor and command officer for approval.

20.1.2. The Supervising Inspector shall ensure that the planned operation is properly staffed and a risk assessment has been completed.

20.1.3. The Operation Plan must be approved by a Command Officer (Lieutenant or Captain).

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- 20.1.4. The Supervising Inspector shall ensure that all Inspectors assigned to the Operation shall have the proper equipment to include the following: firearm, spare ammunition, handcuffs, OC spray and/or asp baton, badge, body armor, raid jacket, portable radio, cell phone, cage car, etc.
- 20.1.5. The case Inspector or Supervising Inspector shall conduct a Risk Assessment and assign a risk value to the assignment. The risk value will be Low-Risk, Medium-Risk or High-Risk.
- 20.1.6. Any High-Risk assignment must be approved through the chain of command to the Chief of Inspectors prior to conducting the Operation.
- 20.1.7. The Case Inspector shall conduct a briefing of all personnel assigned to the detail prior to the Operation. At the briefing, all personnel shall be provided a copy of the Operation Plan.
- 20.1.8. The case agent shall notify the Watch Commander and/or Dispatch Center of the local jurisdiction where the Operation is planned. The case agent shall advise of the nature of the Operation and provide a field contact telephone number.
- 20.1.9. During Operations where entry will be made into a dwelling, every effort shall be made to have a uniformed officer from the local jurisdiction on scene.
- 20.1.10. When the objective is secure, subjects and suspects neutralized, and all team members accounted for, the case Inspector or Supervisor shall ensure the objective is properly searched, evidence seized, suspect(s) booked/identified, injured cared for, and all property (law enforcement and personal) is accounted for prior to departure.
- 20.1.11. At the conclusion of an Operation the Supervising Inspector shall conduct a debriefing of the incident with involved personnel.
- 20.1.12. The case Inspector shall maintain one copy of the Operation Plan in his case file and send one copy of the final Operation Plan to the Administrative Captain to keep on file.
- 20.1.13. At the end of the detail, all copies of the Operation Plan shall be collected and destroyed by the case Inspector. The only exception to this is per 20.1.12 above.
- 20.1.14. The Administrative Captain shall maintain a hard copy of the Operation Plan for a minimum of five (5) years for any pending complaints or litigation.

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## 21. IN-CUSTODY DEATHS

### 21.1. Definition

21.1.1 An in-custody death is an incident in which an Inspector arrests or takes custody of an individual and that person dies.

21.1.2. Inspectors involved in an in-custody death shall notify their supervisor immediately or as soon as practical. If the immediate supervisor is unavailable, then another supervisor or commander shall be notified.

### 21.2. Preliminary and Follow-up Investigations

21.2.1 Preliminary and follow-up investigations involving in-custody deaths shall be turned over to the agency having law enforcement jurisdiction at the location in which the death occurred.

21.2.2 Reporting and investigation responsibilities for in-custody deaths are as follows:

- a. Inspector(s) involved in an in-custody death shall refrain from discussing the incident with others, with the exception of discussions needed to assist with the investigation. When directed to do so, Inspector(s) shall respond from the incident location to the designated interview location.
- b. Inspector(s) who respond to the scene of the in-custody death shall assist in the preliminary investigation at the scene of the incident. Upon relief, such Inspector(s) shall complete and submit an Inspector's Report to his/her immediate supervisor prior to the end of the workday.

### 21.3. Supervisors' Responsibilities:

- a. Respond to the location of the in-custody death.
- b. Secure and manage the scene until properly relieved by peace officers from the jurisdiction in which the death occurred.
- c. Ensure Inspector(s) who were involved in the in-custody death are separated and each Inspector is assigned a non-witness Inspector to provide peer support. Peer support Inspectors shall be directed to transport their involved Inspectors from the incident location to the designated interview location (this transportation should be accomplished as soon as reasonably possible). Inspectors shall be

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allowed to choose their own peer support Inspector.

- d. Make the following telephonic notifications: Watch Commander in the jurisdiction in which the death occurred, Chief of Inspectors and Assistant Chief of Inspectors. The Chief of Inspectors, or his designee, shall be responsible for making the necessary additional notifications.

## **21.4. Chief of Inspectors/Commanders' Responsibilities:**

- a. Coordinate with commanders of law enforcement having jurisdiction at the location in which the death occurred. Provide support to their preliminary and follow-up investigation as necessary.
- b. Place the Inspector(s) involved in the in-custody death on at least three (3) days of paid administrative leave, or whatever reasonable amount of time the Inspector(s) require to recover from the incident.
- c. Provide a management referral to a designated licensed mental health professional to any Inspector(s) involved in an in-custody death. Advise the applicable Inspector(s) that attendance is mandatory.
- d. No later than sixty (60) calendar days following the incident, the Chief of Inspectors shall convene a Board to review the incident.

## **21.5. State Notification**

22.5.1. In accordance with Government Code Section 12525, the Chief of Inspectors will report in writing to the California Attorney General, within 10 days of the death and all facts concerning the death.

## **22. DOUBLE BLIND SEQUENTIAL PHOTO LINE-UP POLICY AND PROCEDURE**

**(Refer to the attached form)**

Policy and Procedure shall in compliance with P.C. 859.7 (a)(11)

## **23. DOUBLE BLIND SEQUENTIAL PHYSICAL LINE-UP POLICY AND PROCEDURE**

**(Refer to the attached form form)**

Policy and Procedure shall be in compliance with P.C. 859.7 (a)(11)

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## 24. SEARCH WARRANTS AND RAMEY WARRANTS

### 24.1. Search Warrants

24.1.1. The Inspector shall review the facts of the case with the assigned Deputy District Attorney and determine whether or not there is sufficient probable cause to obtain a search warrant. Once determined, the Inspector will author the search warrant and affidavit in support of the search warrant. Search warrants that require an Operational Plan shall be reviewed by the Inspector's supervisor, prior to being presented before a Magistrate. If the Inspector's supervisor is unavailable, any available supervisor shall conduct the review.

24.1.2. Search warrants that do not require an Operational Plan, such as search warrants for bank records, cellular telephone records, vehicles in storage, etc., require no supervisory approval.

### 24.2. Arrest Warrants and Ramey Warrants

24.2.1. The Inspector shall review the facts of the case with the assigned Deputy District Attorney and determine whether or not there is sufficient probable cause to obtain an arrest or Ramey warrant. Once determined, the Inspector shall author the arrest or Ramey warrant and affidavit in support of the arrest or Ramey warrant. The warrant and the affidavit, along with the Operational Plan shall be reviewed by the Inspector's supervisor, prior to being presented to a Magistrate. If the Inspector's supervisor is not available, any available supervisor shall conduct the review.

24.2.2. The Court Operations Captain, Consumer Environmental Protection Division Captain and the Special Operations Unit Lieutenant shall each maintain a log listing all search warrants, arrest warrants and Ramey warrants requiring an Operational Plan for each of their respective commands. The log will document the date, location searched, defendant name(s), affiant's name and approving supervisor's name.

## 25. DISCLOSURE OF PUBLIC RECORDS

**25.1. Purpose.** To provide procedures for disclosing public records in accordance with 832.7 PC. These records are related to reports, investigations, or findings of disclosable incidents listed in 26.2 below.

### 25.2. Procedure for Determining Disclosability of Personnel Records

25.2.1 Personnel and investigative records regarding incidents involving discharge of a firearm or use of force resulting in death or great bodily injury are presumptively deemed to be disclosable.

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- 25.2.2 Personnel and investigative records regarding incidents involving dishonesty or sexual assault (as defined by 832.7 PC) shall be disclosable if the internal investigation of such incidents results in a sustained finding.
- 25.2.3 All records pertaining to disclosable incidents listed above shall be transferred to the Assistant Chief of Police for further processing as provided below.

### **25.3 Redaction and Withholding of Records**

- 25.3.1 The Assistant Chief of Inspectors will withhold any records of the investigations of other Inspectors involved in the current incident unless sustained findings of dishonesty or sexual assault were issued against the other Inspector. Factual information about the other Inspector's actions or statements may be released, if pertinent to the incident in question.
- 25.3.2 The Assistant Chief of Inspectors will withhold any records of prior, or separate incidents that are not independently disclosable.
- 25.3.3 The Assistant Chief of Inspectors will make a copy of the records submitted for redaction and eventual delivery to the Custodian of Records. The Assistant Chief of Inspectors will maintain the original records in original condition, and in a secure, confidential location. The original records will be retained for the period specified in the records retention period unless there is good cause to retain the record longer.
- 25.3.4 In consultation with the Custodian of Records, the Assistant Chief of Inspectors will redact from the custodian's copy of the record items as specified by law.

### **25.4 Timing of Disclosure**

- 25.4.1 The Assistant Chief of Inspectors may delay disclosure of a use of force or firearm discharge incident when the case is under actual criminal investigation as follows:
- 25.4.2 Initial criminal investigation: During the active initial criminal investigation of an action, the Assistant Chief of Inspectors will delay the disclosure of records for up to 60 days from the date of the incident.
- 25.4.3 Criminal investigations lasting longer than 60 days: The Assistant Chief of Inspectors may continue to delay disclosure if the investigation required exceeds 60 days and disclosure would interfere with criminal enforcement proceedings. In such a case, the Assistant Chief of Inspectors will confer with the Chief of Inspectors to ensure that the investigation is proceeding in a timely and reasonable manner. The Assistant Chief of Inspectors will provide in writing, the specific basis for the need for extension. The Assistant Chief of Inspectors will reissue that statement every 180 days as needed to protect the integrity of the

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investigation. In cases where someone other than the Inspector is subject to criminal investigation, the Assistant Chief of Inspectors will make disclosure no later than 18 months after the incident, unless extraordinary circumstances justify further delay.

25.4.4 Administrative proceedings. During an administrative review of a use of force or discharge of firearm, the Assistant Chief of Inspectors may delay disclosure of the records for up to 180 days or until 30 days after the close of the criminal investigation and prosecution, whichever occurs later.

25.4.5 Criminal proceedings filed in any disclosable incident. If criminal charges are filed as a result of a disclosable incident, whether the incident involves use of force, dishonesty or sexual assault, the Assistant Chief of Inspectors will delay disclosure of the record until after a verdict of jury is reached, or, if conviction is by plea, until after the time for withdrawal of a guilty plea has expired.

### **25.5 Delivery of Records**

25.5.1 Delivery of Records to Custodian. Within 14 days of the completion of a criminal and/or administrative investigation of an incident involving disclosable records, the Assistant Chief of Inspectors will deliver a redacted copy of the original records to the Custodian of Records. Should more time be necessary to redact the records, the Assistant Chief of Inspectors will notify the Custodian of Records in writing of the delay and the expected length of the delay.

25.5.2 Receipt by the Custodian of Records. Within two (2) business days of receipt of the redacted copy of the record from the Assistant Chief of Inspectors, the Custodian of Records will log the incident into the database maintained by the Custodian of Records. Within 10 business days of the receipt of the redacted copy, the Custodian of Records will make the redacted records available to the public upon request.