

# HOMICIDE DETAIL



## INTRODUCTION

*The San Bernardino County Sheriff's Homicide Detail has earned the reputation of being a professional, hard working, ethical, and prestigious group of individuals, dedicated to all Citizens and Peace Officers throughout the County, State and the Nation.*

*Those who have worked in the Homicide Detail before our time are to be commended for their record of diligence, professionalism, investigative success, and highly respected reputation for outstanding work.*

*When you became a member of this Specialized Investigations Division~Homicide Detail, you accepted the responsibility for maintaining that reputation. You will accomplish this by hard work, and positive results that are acquired through your dedication and professional demeanor.*

*Your responsibility is to those victims who have died at the hands of another in a manner that is deemed a violation of the law. Their surviving family and friends are dependant upon you to aggressively pursue all legal means, using every available resource, to bring the perpetrator to justice. Our mission is to seek truth and justice, not retribution, in accordance to the law. That mission can only be accomplished through dedication, ethical behavior and a strong sense of duty to those we are sworn to protect.*

*We shall conduct ourselves, as we are, professional investigators. We shall abide by the Law Enforcement Code of Ethics and the Department Vision and Value Statements. Remember, your conduct and attitude, on or off duty, reflects upon the Detail, Division, and the San Bernardino County Sheriff's Department.*

*Be true to your chosen profession.*



***John McMahon, Sheriff-Coroner***

## **SPECIALIZED INVESTIGATIONS DIVISION POLICIES AND PROCEDURES**



- I. MANAGEMENT PROCEDURES
- II. ADMINISTRATIVE PROCEDURES
- III. INVESTIGATIVE PROCEDURES

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Brian Zeigler, Lieutenant***

***May 14, 2019***

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## **1.100. ORGANIZATION**

The Specialized Investigations Division is comprised four details, the Homicide Detail, Crimes Against Children Detail, Polygraph Detail, and the Cold Case Detail. The Specialized Investigations Division is under the command of a lieutenant who is under the command of the Division captain.

The Division presently consists of one captain, one lieutenant, six sergeants, and twenty-nine detectives (which includes two Cold Case Team detectives, one district attorney investigator, one reserve investigator, two deputy district attorney's), one Supervising Polygraph Examiner, three polygraphers, for a total of forty-two sworn and civilian personnel.

The Division has the total responsibility of investigating all homicides, suspicious deaths, Lethal Force Encounters or death investigations resulting from contact with law enforcement personnel, custodial deaths, high-risk abductions, serious physical and sexual assaults against children and AMBER Alert investigations occurring within the Department's jurisdiction. The Division also conducts other sensitive or high-profile criminal investigations authorized and directed by the Office of the Sheriff.

The Homicide and Crimes Against Children (CAC) Details may conduct similar investigations occurring within incorporated cities of the county when requested by that particular agency through the Office of the Sheriff or by a Memorandum of Agreement with the agency.

## **1.102. CHAIN OF COMMAND**

The chain of command for the Homicide Detail is as follows:

- Captain - Specialized Investigations Division
- Lieutenant – Specialized Investigations Division
- Administrative Sergeant – Homicide Detail
- Operations Sergeant – Homicide Detail

NOTE: In the absence of a sergeant, a detective with the title of "acting sergeant" will have the same responsibilities and will assume the authority of a sergeant.

## **1.104. COLLATERAL DUTIES OF A HOMICIDE SERGEANT OR ASSIGNED SUPERVISOR**

There are presently five sergeants assigned to the Homicide Detail. There are also a good number of detail and divisional responsibilities required outside of the normal caseload and management duties of these sergeants. In order to make these collateral duties equitable, they are divided into five main categories. Each sergeant shall be responsible for one of

these activities, and the sergeants will rotate duties every twelve (12) months, beginning in January of each year. Those activities shall be:

- a) Administrative/Logistics
- b) Operations
- c) Property
- d) Training
- e) Logistics
- f) Professional Staff

Due to the increasing demands of some of these collateral duties, the Crimes Against Children Sergeant and the Polygraph Detail Supervisor will share in the Division's collateral duties.

## **1.105. ADMINISTRATIVE/LOGISTICS SERGEANT**

### **1.105.10 Acting Detail Commander**

The administrative sergeant shall be the acting lieutenant in the lieutenant's absence. The administrative sergeant cannot be on vacation when the lieutenant is on vacation.

### **1.105.20 On-Call Calendar**

The administrative sergeant is responsible for ensuring the accuracy of the detail "on-call" calendar maintained in Outlook after the lieutenant has approved it. The Division Secretary and the Operations Sergeant will also have access to Outlook to make adjustments and changes for the "on-call" list.

### **1.105.30 Office Equipment Repair**

The administrative sergeant shall be responsible for issuing and ensuring the repair of all equipment.

### **1.105.40 Unit Logs/Mileage/Fuel Logs**

The administrative sergeant shall assist the clerical personnel in obtaining weekly fuel logs and monthly mileage for each unit and ensure that the units are inventoried on the assigned inventory dates. The administrative sergeant or their designee will be responsible for ensuring inventory, mileage and fuel logs for the Mobile Field Office and any other vehicle not assigned to a specific employee are completed and turned in as required.



### **1.105.50 Unit Equipment**

The administrative sergeant shall ensure that units are inspected on the assigned dates and for ensuring that all units are equipped with the necessary and authorized accouterments, (i.e.; radio, shotgun, jumper cables, chains, etc.) This includes inspecting and ensuring the operational readiness of the Division's Mobile Field Office (motor home.) Should equipment for any unit be required, the administrative sergeant will ensure that the needed equipment is replaced. These items will then be noted on the unit detail inventory.

### **1.105.60 DOJ In-Custody Death Reporting Coordinator**

The administrative sergeant or his designee shall be responsible for submission of the DOJ Quarterly Summary of Arrest-Related Deaths (DOJ form #CJ-11) and the annual DOJ year-end in-custody death reconciliation reports at the request of DOJ.

All DOJ in-custody death forms can be found and are to be maintained in the Homicide shared file.

### **1.105.70 Division Weekly Report**

The administrative sergeant is responsible to gather the information from all the Division's sergeants and supervisors for the Deputy Chief's Weekly Report. Each call will be summarized by the sergeants and supervisors and emailed to the administrative sergeant who will place them on a word document to be emailed to the chief's secretary by Tuesday afternoon of each week. The Weekly Report will also be emailed to the Division's captain and lieutenant.

## **1.106. OPERATIONS SERGEANT**

### **1.106.10 Incoming Teletypes/Wanted Flyers**

The operations sergeant is responsible for disseminating all pertinent incoming teletypes and requests and shall ensure the filing and storage of those teletypes for the appropriate time period. The recommended time period for storing teletypes is at least one year. All pertinent teletypes will be scanned and placed into the "Teletype" folder in the Homicide Detail shared computer file for review by each team on a weekly basis.

### **1.106.20 Robbery/Homicide Meetings**

The operations sergeant or their designee will be responsible for attending and/or coordinating the attendance of homicide detail staff to attend local robbery/homicide meetings. This is especially true in instances when information regarding outstanding suspects can be given to representatives at those meetings.

### **1.106.30 Homicide Fugitive File**

The operations sergeant shall ensure the Homicide Fugitive File is reviewed and the warrants are still active. [REDACTED]. The warrants shall be checked every six months and a CR-4 or a call history shall be placed in the file under the suspect's name with the warrant status. If a suspect is arrested, the warrant shall be purged from the file and the District Attorney's Office notified.

If a suspect is found to be deceased, the arrest warrant shall be removed from NCIC database and a CR-4, along with a copy of the death certificate shall be placed in the case file and the District Attorney's Office notified. All personnel who become aware of a change in the status of any homicide or CAC fugitive shall notify the operations sergeant so the file can be updated.

### **1.106.40 Reserve Unit Supervisor**

The Specialized Investigations Division Reserve Unit will be under the immediate supervision of the operations sergeant. The sergeant will assign one detective to act as Reserve Unit Coordinator and another as a back-up coordinator. It is the responsibility of the assigned coordinator's sergeant to be aware of Reserve Unit status and offer assistance to the coordinator as needed.

The Reserve Unit Coordinator shall be responsible for:

- Supervising, overseeing and scheduling activities of the Reserve Unit.
- Attending unit meetings.
- Establishing in-house training.
- Overseeing discipline.
- Addressing problems and concerns of the unit members that cannot be resolved at the unit command level.
- Disseminating Department-related information to the unit command staff.
- Maintaining a current member roster.
- Spot-checking personnel files to ensure members are current in their required training and hours.
- Ensuring that all change-of-status or termination paperwork is properly completed.
- Ensuring the badges, identification and all equipment belonging to the Department are collected and forwarded to the Volunteer Forces Division.

## **1.107. TRAINING SERGEANT**

### **1.107.10 Staff Training**

The training sergeant shall be aware of all pertinent training, locations, and costs that could benefit the detail, i.e.: Behavior Analysis (B.A.T.I.), I.C.I. courses, OIS and basic or

advanced homicide schools, wiretap training, etc. The sergeant will also be responsible for ensuring that all personnel are up to date on all mandatory training, i.e.: all POST required training, range qualification/Use of Force, Perishable Skills training, EVOC, sexual harassment-gender bias, etc. The sergeant will ensure that all Division personnel files are inspected for training needs and will make recommendations to the lieutenant based upon those needs. **All requests for training must be approved by the Lieutenant or Captain.**

The training sergeant shall also be responsible for assigning personnel to teach when requests are made for instructors at the Sheriff's Basic Academy or other venues. The sergeant should maintain a file of training dates and assign detectives from different teams on a rotating basis, so every team shares equally in fulfilling the responsibilities of teaching assignments.

#### **1.107.20 Tip File**

The training sergeant will maintain a system for filing and forwarding WE-TIP information and any other leads forwarded to the detail for follow-up. (See homicide information and "TIP" Files.)

#### **1.107.30 Mobile Field Office Operations**

It shall be the responsibility of the training sergeant to monitor the use and operational maintenance of the Mobile Field Office. Refer to Mobile Field Office Operational Guidelines for details.

#### **1.107.40 Homicide Archives**

The training sergeant is responsible for the oversight of the homicide archives.

### **1.108. PROPERTY SERGEANT**

#### **1.108.10 Evidence Locker**

The property sergeant is responsible for the evidence/property locker and shall ensure that all policies and procedures regarding the handling of evidence and property are adhered to (see EVIDENCE STORAGE for details regarding storage of evidence in the division's property locker.)

#### **1.108.20 Batch Reports**

The property sergeant will conduct a bi-annual audit of the Division's batch reports through the P.E.T.S. system. A list of all the Division personnel's evidence will be obtained from SID so it can be checked to make sure Division personnel are properly disposing of their evidence through P.E.T.S.

### **1.108.30 Stored Vehicles**

The property sergeant will routinely contact and/or coordinate with SID regarding impounded and stored vehicles from this division. The sergeant will work with detail personnel to facilitate the quickest possible disposition of these vehicles. Whenever practical, vehicles involved in homicide/CAC cases should be released as soon as possible after the completion of evidence processing. The Civil Liabilities Division shall be notified before any vehicle involved in an Officer Involved Shooting is released.

### **1.108.40 Parole Letters**

Pursuant to PC 3042 (Notice of Hearing), the Board of Prison Terms, sends the Sheriff's Department a letter regarding inmates about to appear before the Parole Board. All such letters received by the Department regarding the crime of homicide are directed to this detail.

Upon receiving this letter, the property sergeant shall first ascertain that the investigation was conducted by our detail. If not, the letter shall be immediately forwarded to the appropriate jurisdiction. If the Parole Letter is for a CAC case the letter should be forwarded to the CAC Sergeant. If the case is a homicide, the property sergeant will locate and review the investigation in order to respond to the board.

A general response will be made on Sheriff's letterhead as to the minimal facts surrounding the case and include a Departmental recommendation to deny the parole recommendation and oppose the release of all inmates. Unless extenuating circumstances occur, and only after staff review, will a recommendation for parole be approved.

The letter will indicate any appearance a member of the Sheriff's Department expects to make in order to testify during a hearing. These letters will be in the Sheriff's name, signed by the division captain or his designee.

The sergeant having this assignment will maintain a parole letter file. The parole letter file can be found in the Division shared drive, under the Homicide file labeled, "Parole letters."

A copy of the completed letter will then be e-mailed to the DDA responsible for parole liaison and response (387-6465 or 387-6466.) This DDA will also maintain an active parole file and when necessary, coordinate with law enforcement and victim's family members regarding any concerns relating to a potential Parole Board hearing. The DDA will pass on those concerns, either in person or in writing, to the Parole Board as appropriate.

### **1.108.50 Child Death Review Team Liaison**

The property sergeant will be the Homicide Detail liaison with the Crimes Against Children sergeant for the Child Death Review meetings. They will be responsible for obtaining

information from the other Homicide Detail sergeants on child death investigations the detail has investigated and provide the information to the CAC sergeant. For some child death investigations, the property sergeant may need to attend the monthly meeting.

## **1.109. CRIMES AGAINST CHILDREN SERGEANT**

### **1.109.10 Juvenile Detention Logs**

The CAC sergeant will be responsible for monitoring and maintaining the juvenile detention log book, which shall be kept with the current administrative sergeant. They shall ensure that the detention logs are properly filled out and that current Department policies and laws pertaining to the detention of juveniles are strictly adhered to. Any deviation in the required procedures should be immediately brought to the attention of the person responsible so it is not repeated in the future.

### **1.109.20 Child and Elder Death Review Team**

The Crimes Against Children sergeant will be responsible for attending the monthly meetings of the Elder and Child Death Review Teams. They will gather any case information from the Division that is applicable to the meetings. If necessary, they will liaison with the property sergeant to gather case details to be discussed at the meetings and may request the property sergeant attend the meeting to explain very involved cases.

## **1.110. LOGISTICS SUPERVISOR**

### **1.110.10 Key Control**

The logistics supervisor is responsible for the division key control. The property sergeant will maintain the key control box where all extra keys will be marked and stored. The key control box is located [REDACTED]

The logistics sergeant shall periodically inspect the key control to ascertain that all necessary keys are present (this includes the 91 express lane monitors.) The sergeant shall maintain an accurate database record of all keys assigned to members of the division. At least once during the calendar year, the logistics sergeant shall conduct an audit of all keys to ensure the accuracy of their file. In the event that one or more keys are missing or need replacement, the sergeant shall be responsible for locating them or having them replaced.

### **1.110.20 O.S.H.A. Safety Officer**

The OSHA/Division Safety Officers' (one sworn and one civilian) are responsible for documenting unsafe working conditions and maintaining the employee safety and health

manuals. The Division Safety Officers will also be responsible for conducting the mandatory quarterly OSHA inspections, updating the OSHA file and distributing OSHA-related safety bulletins.

#### **1.110.30 Detail Tools and Equipment Inventory**

The logistics sergeant is responsible for maintaining an accurate and current inventory of all Specialized Division vehicles, including communications and firearms, as well as related Division equipment. The inventory will include vehicle mileage and equipment status.

#### **1.110.40 Fixed Assets/Property Inventory**

The logistics supervisor is responsible for ensuring the Division fixed asset/property inventory is correct and up to date. Should any new fixed asset item be required by the Division, the sergeant shall ensure that the appropriate budgetary justification is completed. The sergeant shall also ensure that any fixed asset item that is replaced or deleted from the inventory is properly disposed of in accordance with county rules/policy. The sergeant will act as the Division liaison responsible for assisting and coordinating annual audits.

### **1.112. CLERICAL SUPERVISOR/POLYGRAPH SUPERVISOR**

#### **1.112.10 Professional Staff/Clerical Supervisor**

The clerical supervisor oversees all clerical/professional staff within the division and prepares performance appraisals of professional staff employees as well as other supervisory duties. They shall monitor their vacation schedule and approve all leave requests to ensure adequate staff coverage at all times. The clerical supervisor will review and approve clerical/professional staff EMACS reports prior to being submitted to the payroll clerk. All requests for non-emergency vacation, sick or holiday leave shall be submitted and approved in advance through the online EMACS vacation/sick request by the clerical supervisor. The request should have a detailed explanation for the requested leave. In the absence of the clerical supervisor, the clerical/professional staff shall report to the lieutenant (or in his absence, the administrative sergeant.) The Captain's secretary shall be supervised by the lieutenant and/or captain.

#### **1.112.20 Staff Assignments**

The clerical supervisor or their designee is responsible for coordinating participation in all upcoming staff events such as annual blood drives, Toys for Tots, SEAT functions, Desert Thunder, Sheriff's Rodeo, Operation Santa Claus, Juvenile Diabetes charity fundraising events, etc. They will ensure that no one person is allowed to volunteer excessively and that those volunteers are known so they can be recognized for their actions during evaluation periods. The clerical supervisor or their designee will also be responsible for

coordinating and overseeing annual holiday luncheons and going away events for newly promoted or transferring staff members.

### **1.113. DEPARTMENT/OUTSIDE TRAINING ASSIGNMENTS (SGTS & DETECTIVES)**

The Specialized Investigations Division is routinely called upon to assign instructors to teach at the Sheriff's Academy and other venues. These assignments will be given high priority and should not be disrupted by routine casework.

In general, the assignments include, but are not limited to; homicide law, homicide/suicide/crime scene investigations, advanced homicide investigations, officer-involved shooting investigations, interview and interrogation, crime scene dilemmas, CAC investigations and new technologies in crime scene investigation.

Members in the Division may also be called on to make brief presentations to local outside law enforcement agencies in such areas as; officer-involved shooting investigations, high-profile murder investigations and other investigations as requested.

### **1.114. WORK SCHEDULE**

The working shift of the Homicide Detail is Monday through Friday, 0800 to 1700 hours, for the team on first call. When a team is on second, third, fourth and fifth call, the working shift will be a 4/10 shift, working 0700-1700 hours. Three homicide teams will have Mondays off while the other two teams will have Fridays off when working the 4/10 shifts.

The working shift for the cold case team will be a 4/10, Monday through Thursday, 0700-1700 hours.

Because this Division is responsible for 24-hour coverage, on-call status will be utilized for non-working hours. Each week, on a rotating basis, one sergeant and the investigators assigned to their team will be designated as the primary, or "first call" team. The remaining sergeants and their personnel will be second, third, fourth and fifth on-call teams, respectively.

Every Monday at 0700 hours, the oncoming first on-call team will have the primary responsibility for any new or incoming investigations during the subsequent seven-day period. Should the first call team be called to a crime scene, the second call team will be activated to respond to any new or incoming assignments until the first team is free to resume the call. If necessary, the third, fourth and fifth team will be utilized in the same manner.

The Division lieutenant has the authority, discretion and responsibility to remove a team of their first on-call responsibilities prior to the end of their seven-day rotation period based on

their caseload, fatigue or other circumstances impacting the safety, well-being and effectiveness of the members of the team.

A Homicide Detail work schedule shall be prepared by the Division lieutenant and posted in advance for a minimum 90-day period.

### **1.115. VACATION SCHEDULE**

Prior to the beginning of each calendar year, a blank schedule will be passed to each employee in the Division for the purpose of requesting vacation/leave time.

That schedule will be passed along according to seniority based on time in grade, regardless of rank or classification (this includes professional staff even though the professional staff sign up will be done independently of the sworn staff.) In the event of a tie, time on the Department/county seniority will be used. In the event of a second tie, the final tie-breaker will be division seniority. Each employee requesting more than one block of time shall indicate their first choice with a number one and their second choice with a number two.

To alleviate confusion and any misunderstanding about the vacation sign-up process, the following guidelines will be followed:

1. Only two of the present five sergeants may be on scheduled vacation at one time.
2. The team sergeant and acting sergeant may not be on scheduled vacation at the same time.
3. Only one detective of any homicide team may be on scheduled vacation at one time.
4. No more than five detectives in the detail may be on scheduled vacation at one time.
5. No more than two professional clerical staff may be on scheduled vacation at one time. Additional vacation time may be approved upon request via memo submitted to the Clerical Supervisor.
6. An employee's second choice can be overruled by another's first choice, if necessary to maintain rules 1, 2, 3, and 4.

All issues regarding vacation scheduling will be in accordance with the county MOU.

The administrative sergeant will be the Acting Lieutenant in the lieutenant's absence.

**The Division captain and lieutenant may not be off on scheduled vacation at the same time.**



**The administrative sergeant and lieutenant may not be off on scheduled vacation at the same time.**

### **1.116. CASE SYNOPSIS**

It shall be the policy of the Homicide Detail to prepare a brief case synopsis on all unsolved homicide cases within a reasonable time (but not to exceed one year) after all viable leads have been exhausted. **In situations where a detective is transferred from the detail, a synopsis shall be completed on all unsolved cases carried by that detective before their last day in the detail.**

It shall be the responsibility of the team sergeant to prepare or cause the preparation of this synopsis. A copy of the synopsis will be included in the homicide case file.

The synopsis will include the following information:

- A. Description of scene or event: This should consist of a brief synopsis of the crime scene, what was found, who the victim was, cause of death, etc.
- B. Status of the Investigation to date: What has been done, what leads were followed, how were leads developed, what evidence has been processed, what did it show or indicate, etc.
- C. Investigator's opinions: What happened, who did it, what's needed to prove it, etc.

**Note:** When completing the case synopsis and cover sheet, you should remember that someday, an investigator will pick up this case, read your synopsis, and evaluate your abilities as a homicide investigator based on the synopsis.

### **1.117. DETAIL ADVANCE MONEY**

The Division's captain and lieutenant have access to a small sum of advance money. Should the need ever arise that homicide investigators require advance money immediately to pursue an investigation, a withdrawal can be made.

The borrowing sergeant or detectives shall reimburse these monies as quickly as possible through the use of the travel expense account reimbursement claim form (green sheet.)

Since this money is limited, it is imperative that personnel replace the draw with their next expense account reimbursement.

Failure to reimburse money taken could result in disciplinary action and/or garnishment of wages.

## 1.118. MANUAL REVIEW

In accordance with the Division Inspection Protocol, this manual shall be reviewed and updated (if necessary) bi-annually by the detail lieutenant/commander. This is critical in order to keep current and up-to-date with procedural and legislative changes that occur throughout the year. The date on the cover sheet of this manual shall be changed upon review, to reflect the most current review date.

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## **2.100. PERSONAL APPEARANCE AND EQUIPMENT**

### **2.100.10 Personal Appearance and Dress**

The daily dress or uniform attire and appearance of all personnel assigned to the Homicide Detail shall be in accordance with the Sheriff's Department Manual.

Because of the varied climatic and job conditions occurring within the jurisdiction, it would be advisable for each person to have cold and/or wet weather gear immediately available to them when they respond to a scene. Also advisable, is a set of coveralls or old clothing and footwear suitable for those occasions when an investigator must unearth a gravesite, investigate a fire death, etc.

The type of assignment, weather, etc. shall determine the change from the Division's prescribed dress, by the scene supervisor.

Casual Friday dress (per Department policy) is approved for all staff except the first call team, who will wear regular business attire.

### **2.100.20 Personal Safety Equipment**

All persons assigned to the Specialized Investigations Division shall, always, have their firearms, handcuffs, and other necessary equipment available and in their possession.

### **2.100.30 Personal Hygiene Items**

Due to the type of assignment, it is not uncommon for personnel to be gone for days. It is advisable to have constantly available, a "shaving kit" or bag containing items for personal hygiene and cleanliness. This bag, as well as the foul weather clothing, can be left in their vehicle until needed. It is also advisable to have extra money or credit cards on your person for use when these unexpected "out of town" conditions arise.

### **2.100.40 Individual Workspace/Related Office Area Cleanliness**

It is the duty and responsibility of each member of the Division to ensure they have a clean and professional looking work environment. Everyone should be constantly mindful of the appearance of their work area as they go about their daily activities. Every member of the detail is responsible for the ongoing cleaning of their workspace, work rooms, monitor rooms, meeting rooms, interview areas, holding cells, storage rooms, file rooms and equipment after they are used.

## **2.102. CELLULAR PHONES**

Every investigator assigned to the Specialized Investigations Division is equipped with a Department-issued cellular phone. Every investigator will carry, or have in their possession, their cellular phone as required. Those "on call" are required to keep their cellular phones "on" at all times in the event of a callout requiring after-hours contact with the investigator. Those not "on call" are not required to keep their cellular phones on, however, it is recommended that they do, in the event of an emergency or other critical situation requiring the investigator be contacted after hours.

In some rare instances, a cellular phone may not work in some locations within the prescribed range of the cellular system. If a situation arises where the investigator is on call in an area where they are "out of range" or believe their cellular phone may not work properly, they should immediately notify their sergeant with a phone number where they can be contacted during the time period they are in that area.

Cellular phones are not for personal use and should be used primarily for business purposes. Any excessive or inappropriate personal use of Department-issued phones is prohibited, and Division members may be liable for reimbursement for personal use calls.

## **2.104. DIVISION MEMBER TELEPHONE NUMBERS**

All personnel assigned to the Specialized Investigations Division are given a list consisting of the home and cell phone numbers of all personnel. It is the responsibility of each member of the Division to make sure their phone numbers are current and up-to-date. In the event a member moves or changes numbers, they must notify the Division Secretary as soon as possible so she can update the phone roster. At no time shall any person be careless or negligent and have their list left out and open to public view. Old and outdated lists shall be destroyed so that no personal telephone numbers can be read, i.e., cut into small pieces with scissors, shredded, etc.

## **2.106. 91 EXPRESS LANE MONITORS**

There are currently two Fastrack 91 express lane monitors (for use on the 91 freeway and other toll roads in Los Angeles and Orange County) assigned to the division. The monitors are kept inside the key control box in the division evidence room. They are serial numbered with a letter followed by a twelve-digit number. The property sergeant shall be responsible for tracking the use of these monitors and ensuring they are properly logged in and out. When an investigator needs to use one of these monitors they should first obtain permission from their team sergeant.

The investigator should then fill out the log form (including their name, the date out, and the last three digits of the serial number of the monitor), which is kept near the monitors. When the investigator returns the monitor, they should enter the date it was returned on the form.

It is important for every member of the division to remember these passes are to be used for **WORK-RELATED** purposes only. They are furnished for our convenience while conducting investigations and are **NOT** for personal use.

## **2.108. PORTABLE COMPUTER DEVICES**

Each homicide detective and sergeant is assigned a laptop computer. Because these devices are portable and easily damaged, it is the responsibility of each member of the detail to ensure proper care of the equipment, and that the equipment remains in good condition. The tablet computer may be taken out of the office for use in the field or whenever needed. These devices are to be used for official Sheriff's Department and county business. The use of these devices for anything other than official business is not permitted without prior approval of the detail commander. No alterations, modifications, or upgrades to these devices will be made without the expressed permission of the Division commander and or the Technical Services Division. Additionally, because of the portability of these devices and the confidential nature of the investigations we conduct, it is crucial that each employee with access or control of a portable device utilizes the passcode option. The use of a passcode will protect confidential information in the event the device is misplaced or lost.

## **2.110. DETAIL COMPUTERS / ELECTRONIC EQUIPMENT**

Each detective and supervisor in the Specialized Investigations Division has at their disposal, a desktop PC. There are additional computers, printers, scanners, digital cameras, PowerPoint projectors and related equipment available in the Division computer room.

Every piece of computer equipment and the related software is subject to the policies set forth in the Department Manual. Improper use of this equipment will not be tolerated.

Each team sergeant should ensure that every member of their team has a good working knowledge of the computers within the Division and the software available to them. Each investigator should also have a working knowledge of how to operate the PowerPoint projector, the audio-video recording equipment in the monitoring rooms, the audiotape/videotape/CD/DVD duplicators, the GPS, the laser measuring device (Faro machine), the surveillance body wire, the digital camera and image scanner and all other electronic equipment owned and maintained by the division.

It is incumbent on every member of the detail to immediately report any damaged or malfunctioning equipment to a supervisor. All electronic equipment that is not required to stay turned **ON** all the time, should be turned **OFF** when not in use. It is important that every member of the Division treats each piece of equipment as if it were their own, taking due care of it so as to ensure a long, useful working life.

## **2.112. DIGITAL CAMERAS**

The Homicide Detail presently has five digital cameras assigned for use in investigations (one in each of the on-call boxes.) The images captured by these cameras shall be downloaded and saved on CD's or DVD's and then downloaded into the DIMS computer in accordance with Department Policy.

In addition, when a member of the Division becomes aware of digital images captured by Department members at a crime scene; whether through the use of a digital camera, cell phone camera or any other electronic device capable of capturing images, they shall make the necessary arrangements to have these images downloaded in accordance with the same Department policy to be maintained with the case file.

## **2.114. UNMARKED DIVISION VEHICLES**

The Specialized Investigations Division has numerous unmarked vehicles assigned to it. These units are for business use by the personnel assigned to the detail. If a detail member is utilizing a unit, it becomes their responsibility to keep the vehicle maintained and clean. These units shall always be in a state of readiness to respond, day or night to a scene.

At no time, will Division personnel leave a vehicle at their residence while on vacation or leave for more than one week without approval of the Division commander.

These vehicles are not necessarily assigned to an individual, but are assigned to the Division as a whole. Any personnel utilizing one of these vehicles shall take appropriate care and action to prevent any damage or theft to or from this vehicle. Any damage to a county vehicle shall be reported to a supervisor immediately and necessary documentation will be done, if required.

## **2.116. FUEL/SERVICE FOR UNMARKED UNITS**

Fuel for county vehicles can be obtained by using the Voyager card assigned to each vehicle or through any county fuel yard. Whenever possible, fuel should be purchased at a county fuel yard before using the Voyager card. Maintenance can be performed by any approved outside vendor. All repairs of \$500.00 or more must be approved by the sergeant or lieutenant.

The billing cycle for the Voyager credit cards is from the 25<sup>th</sup> of each month to the 24<sup>th</sup> of the following month. Fuel logs may be turned in on a weekly basis, however, they can be turned in when the log sheet is full, but no later than the monthly due date. Regardless of how frequently the logs are turned in, a new log sheet shall be started on the 25<sup>th</sup> of every month.

## **2.118. MONTHLY VEHICLE/UNIT INVENTORY**

As a result of requests made by the Automotive Division, inventory/mileage sheets shall be completed for every vehicle within the Division on a monthly basis. The purpose of this is to have a tracking system in place to monitor major repairs and oil changes. All oil changes and/or other major repairs completed on an assigned vehicle within the particular month will be documented on the inventory sheet. The vehicle mileage should also be listed (as it relates to the date each oil change or repair was completed)

A “master” vehicle inventory sheet will be maintained in the Division shared drive (SPEC-SHARE), within the folder “Monthly Vehicle Inventory Sheets.” Also within that folder, there are additional folders for the respective teams/details in the Division. Each detective/employee will be responsible for completing and saving their vehicle inventory sheet for the respective month and year onto the shared drive by the 1<sup>st</sup> of each month. These saved inventory sheets will be tracked by clerical staff to ensure oil changes and/or repairs are documented for vehicle warranty purposes.

The inventory sheet must be accurate and reflect the current equipment inventory and repair status of the unit. If an investigator’s personal equipment is kept in the vehicle on a regular basis, that equipment should also be included on the inventory sheet. This documentation is helpful in the event that a vehicle is stolen or burglarized.

### **2.118.10 POOL CARS**

It will be the responsibility of each employee to determine whether service is needed on one of the pool vehicles, during the time it is in their possession.

### **2.118.20 UNITS WITH OIL LIFE GAUGES**

Typically, all vehicles should be serviced (oil changed) at or near every 5,000 miles of operation. Some vehicles have service life gauges that indicate projected oil life. These vehicles tell you when the oil life reaches 0% and an oil change is required. All such units assigned to this Division shall be serviced (oil changed) when the oil life reading reaches 0% or at 5,000 miles after the previous service, whichever comes first. NEVER drive a unit for extended periods of time with the oil life gauge reading 0% (this may void any subsequent warranty repair on that vehicle).

## **2.120. DIVISION COMMAND POST / MOBILE FIELD OFFICE**

In February 2016, the Specialized Investigations Division obtained a 37’ custom made Mobile Field Office (Command post) and investigative command post. Its purpose is to provide in-field facilities to enable investigators within the Division’s specialized units to

conduct all aspects of criminal investigations immediately and efficiently without leaving the scene.

### **2.120.10 Command Post Deployment Guidelines**

The division commander, lieutenant or sergeant assigned to any detail within the Specialized Investigations Division may authorize the deployment of the Command Post.

In general, requests for deployment of the command post unit will be made to an on-call detail sergeant. Deployment of the command post will take place at the discretion of that detail sergeant.

The command post may also be deployed when requested by other Sheriff's stations or divisions or by other law enforcement agencies upon authorization by the Specialized Investigations Division Commander, Deputy Chief or the Office of the Sheriff.

### **2.120.20 COMMAND POST OPERATIONAL GUIDELINES**

Only authorized Department personnel who are trained and knowledgeable in its operation will be permitted to operate the command post. For the most part, the Specialized Investigations Division Volunteer Unit will be responsible for the Mobile Field Office's operation, transportation to crime scenes, maintenance at the scenes, security, and restocking after use.

When a deployment is deemed necessary, the team sergeant will notify the on-call volunteer of the deployment. The volunteer will respond to Sheriff's Headquarters as soon as possible and deploy to the scene. Once at the scene, the volunteer, at the direction of the team sergeant, shall be responsible for its set-up, operation, and maintenance during the deployment. At the conclusion of the operation, a volunteer will return the Mobile Field Office back to the designated storage lot where it is currently kept.

The volunteer will then perform an "after event" inspection and complete the Mobile Field Office checklist. During the inspection and completion of the checklist, any deficiencies or discrepancies shall be noted. The volunteer will be responsible for restocking all necessary supplies and/or ensuring all repairs are performed prior to the next deployment. If a deficiency cannot be corrected or resolved, the team sergeant will be notified of the deficiency and make a determination if it can still be deployed with the deficiency being corrected at a later time.

The sergeant authorizing the deployment shall be responsible for ensuring that the command post is properly deployed, set-up and maintained at the scene. He/she shall also be responsible for ensuring that it is refueled, restocked, and cleaned after each deployment so that it can be re-deployed immediately, if necessary.



If a sergeant from the Division's Crimes Against Children Detail, determines a need for the command post's deployment, they shall contact the on-call homicide sergeant. The homicide sergeant will contact an available on-call volunteer and authorize deployment.

### **2.120.30 Inspections**

When not in use, the command post will be under the control of the Division's Clerical Sergeant. The sergeant will inspect the unit once a month to ensure the unit remains fully operational and will review the deployment checklists and complete a monthly inspection, noting any deficiencies, damage or required repairs. The Clerical Sergeant will also ensure that all repairs are completed in a timely manner. During each monthly inspection, the Clerical Sergeant will also ensure that both the interior and exterior of the unit is washed and cleaned.

### **2.120.40 Inventory and Checklist**

An inventory sheet and operational checklist have been prepared, which lists all of the equipment and supplies that the Command Post shall have available to it at all times. This checklist includes the procedures for operating the on-board equipment. The checklist shall be completed each time the Command Post is deployed. The training sergeant shall be responsible for ensuring the checklist is modified when necessary.

## **2.122. CALL-OUT DUTY BOXES**

The detail currently has five "call-out" boxes for use on callouts; one for each team. A team member should carry the call-out box in the trunk of their unit. The boxes are made of sturdy black plastic, with heavy foam lining and each contains the following:

1. Laser-measuring device
2. Digital camera
3. Compass
4. GPS
5. Box of fresh AA batteries.
6. Cellebrite – phone download system that is passed to each on-call team.

It shall be the responsibility of each team sergeant to ensure that each member of his team is knowledgeable in the proper operation of each piece of equipment in the box. Refresher training with the equipment should take place on a regular basis. Each member of the team should be able to effectively maintain and operate each item. It shall be the responsibility of each team to maintain their box and ensure the contents are maintained and in good repair. Each box should be inventoried quarterly and included on the quarterly vehicle inspection sheet for the unit the call-out box is kept in. The batteries should be checked and replaced

or replenished as necessary and the functioning of the GPS should be checked. Any items from the box that are damaged, not working or missing should be reported to the team sergeant as soon as possible.

#### **2.124. "HENRY" and "C" NUMBERS AND FELONY LEDGER**

A computer database of all cases investigated by the detail is kept and maintained by the detail lieutenant or their designee (generally the Administrative Sergeant.)

As new investigations are received, each case is issued an internally created homicide number or "Henry" number – this number reflects the current year, followed by a consecutive number (i.e., 2016-27). For CAC, an internally generated "C" is issued for every CAC case. These numbers are assigned to assist in tracking, filing and retrieving case files.

The face sheet and other pertinent information are recorded in the Homicide/CAC Details felony computer ledger (database.) The ledger is kept up to date by the detail Lieutenant or Administrative Sergeant and has information on every investigation handled by the Homicide/CAC Details for each calendar year. This information is available to any Sheriff's personnel upon request.

The accuracy of this database is dependent upon the information flowing up the chain of command from the investigators. The ledger is kept in the Division's Shared File.

#### **2.126. VEHICLE TOWING / TOW BILLS**

During an investigation, it may become necessary to tow a vehicle from one location to another to be searched, impounded, processed for evidence, etc. Whenever practical, vehicles towed for investigative purposes should be impounded and towed to the Sheriff's Property Division storage lot. Be mindful, vehicles towed and stored at a towing facility storage lot will incur storage fees due payable by this division.

The investigator requesting the tow should attempt to utilize the Sheriff's Automotive Detail to complete the tow whenever possible. To do so, investigators should contact the Automotive Division supervisor through dispatch or directly via their cellular phone to request a tow truck. The supervisor will then contact the driver with instructions on where to respond.

When a private tow vendor is used, always give the towing driver a case number and your name and make sure he puts it on the receipt in order to ensure the billing is sent to our division.

When a tow bill is received by the Specialized Investigations Division, the investigating sergeant shall inform the Division lieutenant of the bill indicating why the vehicle was towed and then ensure the bill is paid.

## **2.132. OUTSIDE AGENCY MOA'S AND MOU'S**

The Sheriff's Department maintains ongoing MOA's (Memorandum of Agreement) with several outside agencies regarding the investigation of officer-involved shooting incidents. These agencies include; the US Army National Training Center (NTC) at Fort Irwin, the USMC Marine Air Ground Task Force Training Center (MAGTFTC) at the Marine Corps Air Ground Combat Center (MCAGCC) in Twenty-nine Palms, the San Bernardino County Probation Department, the District Attorney Investigators, Barstow PD, Colton PD, Rialto PD, Fontana PD, Chino PD, Montclair PD, Redlands PD and Upland PD. The California Highway Patrol (CHP) has an MOU with the Department for officer-involved shootings. There also exists a mutual aid/joint powers agreement between San Bernardino County and the Las Vegas Metropolitan Police Dept. in Nevada as well as the Mohave County Sheriff's Dept. in Arizona. Any questions or issues involving MOU's or MOA authority to investigate crimes in other jurisdictions or with other agencies should be referred to the assigned Sheriff's County Council staff. All requests for the Specialized Investigations Division to conduct other criminal investigations must be approved through the outside agency command staff and the Office of the Sheriff.

## **2.134. POLYGRAPH**

Employees within the Polygraph Detail are directly supervised by the Supervising Polygraph Examiner. The Supervising Polygraph Examiner is supervised by the Division chain of command.

If requested to respond to a crime scene, the investigating sergeant should consider whether a polygraph examination may be utilized sometime in the future of the investigation.

If a polygraph examination is required at some point later in the investigation, the following guidelines should be adhered to:

If a polygraph examiner is needed after normal business hours or on a weekend, the on-call polygraph examiner should be contacted by the team sergeant or his designee.

If a "last minute" polygraph examination is needed during normal business hours, contact the polygraph secretary to schedule a time. The Polygraph Detail will make every effort to rearrange their schedule to accommodate the needs of the Division whenever possible. In some cases, however, they may not be able to accommodate our needs.

If an investigator pre-schedules a polygraph examination for a future date, that investigator (or someone from their team) must notify the Polygraph Detail of any cancellations, re-schedules or no-shows as soon as possible before the actual time of the test.

It is the responsibility of each team and CAC sergeant to ensure that these guidelines are strictly adhered to.

### **2.136. DISTRICT ATTORNEY - FOLLOW-UP REQUESTS**

Normally, after a deputy district attorney has reviewed a case, they may have additional investigative work that they feel is necessary for filing the criminal complaint or successful prosecution. There are times when this is communicated to an investigator by telephone.

It shall be the policy of the Specialized Investigations Division to ask the requesting deputy district attorney to put their follow-up request in memorandum form (or at the very least via e-mail) and direct it to the investigating homicide and CAC sergeant. This will allow the sergeant the flexibility to assign this follow-up to any of his investigators and creates a check-off list to ensure the completion of the investigation.

### **2.138. DISTRICT ATTORNEY - CASE FILING**

Typically, many homicide and CAC cases are presented to the District Attorney's Office incomplete and on relatively short notice, usually due to an arrest being made early in the investigation or at some point prior to the completion of the investigation. In those cases, the reviewing DDA may ask for a case summary containing specific details to justify filing the incomplete case. The DA case summary should be factually accurate and include all pertinent information and probable cause to support a criminal complaint or arrest warrant.

### **2.140. COURT SUMMARY IN LIEU OF SESSLIN AFFIDAVIT**

Recently, copies of entire investigations prepared by this division have been obtained by the media and disseminated, all or in part, in newspapers and online. The reason this has occurred is due to the fact that when a case is filed by the DA's office, certain paperwork provided by the DA must be submitted to the court along with any available crime reports to justify and support the charges being filed. One such document is a Sesslin Affidavit. The Sesslin Affidavit is provided to the court when filing a criminal complaint or requesting an arrest warrant, and is required to establish probable cause for a judge to review and agree to the complaint or issue an arrest warrant. The Sesslin is signed by the DA's office and once filed with the court; any documents accompanying it become part of the public record. One method of securing our investigative reports from release through the courts is to not give the reports to the courts when the case is initially filed. A succinct, concise case summary can be substituted in lieu of actual investigative reports for court filing purposes.

In order to protect our investigations from being prematurely released to the media through the courts, the following practices shall be instituted immediately;

- 1) When any case is submitted and filed by the DA's office, it shall include a short summary that will accompany the filing paperwork to the court.
- 2) The court summary need only contain basic information and not much more detail than what is found in a Probable Cause Declaration. The court summary does not need to be as detailed as the DA summary; but the DA summary can, in some cases, be used in place of the court summary as long as it does not include details that we do not want to be made public.
- 3) Make sure the filing DDA is aware of the court summary and request that the summary is the only report that accompanies the filing paperwork to the court – not the entire investigation. Upon filing the case with the court, the DA's office should then forward only the summary to the court and maintain the investigative reports in their file. The DA's office will disseminate the defense copy at arraignment or other court appearance.
- 4) Any reluctance or refusal on the part of the DA's office to forward only the court summary to the court when filing the case should be brought to the attention of the detail commander immediately.

Even when presenting a case for filing using a "typical" case summary, a second short summary (specifically for the Court) shall be prepared and presented along with any investigative reports for ALL investigations conducted by the Specialized Investigations Division (to include all homicides, LFE's, significant CAC cases and "special" investigations) at the time the investigation is presented to the reviewing DDA.

## **2.142. AUDIO AND PHOTOGRAPH COPY REQUESTS**

The Specialized Investigations Division amasses a large number of audio files tapes/CD/DVD's, videotapes/files and photographs during the normal course of an investigation. It is very common for attorneys, both defense and prosecution, to request copies of these items for court.

The procedures for reproduction shall be as follows:

**Audio:** Copies of audio recordings on CD's will be provided to the District Attorney's Office on reasonable request. No reimbursement is required from the D.A.'s Office if the request is reasonable. No CD shall be copied for the defense without a valid court order and permission from the prosecuting D.A. No audiotape/CD/DVD will be provided to a defense attorney without one-for-one reimbursement of the copied media type. (Usually handled by the DA's Office).

**Photographs/Videotapes, CD's or DVD's:** All requests for copies of 35 mm photographs should be made through Scientific Investigations Division via e-mail. All digital photographs can be accessed through DIMS. The D.A.'s Office has access to DIMS and therefore can usually get the photos they need for themselves and provide copies for the defense. Existing ordinances and fee schedules require that particular agencies pay certain fees for photographs. The Scientific Investigations Division maintains all 35mm photo negatives/CD/DVD and will handle all incoming requests for copies.

All requests for copies of videotapes, audiotape, CD's or DVD's, other photos, etc., shall be submitted in writing by the D.A. A copy of the request shall be placed in the case file after the request has been completed. Once the request has been completed and the requested items have been provided to the D.A., the detective furnishing the copies shall have the D.A. sign a CR-2 or CR-4 indicating they have received the requested items. The signed CR-2/CR-4 shall be placed in the case file to show that the request was completed and who received the items requested.

With new technology merging with old, past cases contain all or a mixture of cassette tapes and/or VHS videotapes documenting audio and video. When copies of these tapes are requested, they should be transferred and converted from their original tape format to a digital format i.e. CD or DVD. The original item and one digital copy of that item shall continue to remain stored in evidence. Any subsequent copies should be made from the digital copy so as not to subject to the original to any potential damage.

#### **2.144. VERBATIM TRANSCRIPT REQUESTS**

Once a homicide/CAC case has been filed by the District Attorney's Office and the court process begins, the prosecuting D.A. may request verbatim transcripts of audio and/or video-recorded interviews with key persons involved in the case. Often, the attorney filing the case will make such a request.

Because defendants commonly plea bargain their cases before going to trial, and verbatim transcripts are not required after that, it shall be the policy of the Specialized Investigations Division to **NOT** provide verbatim transcripts of recorded interviews prior to the case going to a preliminary hearing. Generally, transcripts will not be prepared prior to an actual trial date being set. The Division lieutenant must approve all requests for transcripts and special or out-of-the-ordinary requests will be addressed on a case-by-case basis.

In every case where a prosecutor requests a verbatim transcript(s), the investigating officer must instruct the D.A. to make a formal request on an IOM addressed to the Division lieutenant. The investigator should also advise the attorney to make their request no less than six to eight weeks before the trial date.

In cases where the transcript is needed for a 402 motion to suppress a statement, the attorney should be as certain as possible when the actual hearing will take place and make the request due six to eight weeks prior to that date. When the Division lieutenant receives the request, he will make a determination whether or not to have the transcripts done at that time or not. After the request has been approved, the investigator will make a working copy of the original recording (not the original recording itself) to be used by the clerical staff to transcribe, if the recording is not in the Division shred file.

It is imperative that each investigator, when dealing with the D.A.'s requests for verbatim transcripts, explains to the requesting attorney, the importance of only requesting transcriptions that are absolutely necessary. Due to the length of time it takes to prepare a transcript, the clerical staff assigned to the Division is very limited in their ability to produce verbatim transcripts on a "whim" or on short notice. Therefore, these guidelines will be strictly adhered to.

In cases where there are many or extremely lengthy interviews to be transcribed, there is an agreement in place with the District Attorney's Office to attempt to share the burden. It is recommended the homicide team/CAC sergeant intervenes in those instances to work out a suitable arrangement with the prosecutor handling the case, to have their clerks assist in doing some of the transcriptions.

#### **2.146. CAC/HOMICIDE INFORMATION AND "TIP" FILE**

The Homicide Detail occasionally receives information regarding unsolved, undiscovered or unsubstantiated homicides. When these situations arise, it is critical that the information is either passed on to the appropriate investigators or documented and maintained for reference.

If the information comes in the form of a "WE-TIP", it will be immediately forwarded to the team handling the case. In situations where no known case exists, it will be forwarded to the homicide team sergeant with "first-call" responsibilities at the time the information is received.

In every case, appropriate attention will be given to the information in order to substantiate or disprove its validity. If the information relates to an ongoing case, it will be immediately forwarded to the team sergeant in charge of that case for appropriate follow-up. If the information relates to another agency's case, it will be immediately forwarded to that agency.

If no known case exists, and the information can be substantiated, it shall be done as soon as possible. If the information cannot be corroborated, the memorandum or police report regarding the homicide information will be forwarded to the clerical sergeant and placed in the "tip" file.

The training sergeant will maintain an up-to-date file of these reports, memorandums and other pertinent "tips" in the Division shared computer file and will periodically check the file to ascertain any correlation of new case information. The training sergeant shall immediately notify the other team sergeants of any new information relating to them or one of their cases.

It is the responsibility of each team sergeant to independently review the contents of the file folder every few weeks to ensure they are aware of its contents.

## **2.148. PRESS RELEASES**

When the Homicide/CAC Detail responds to a crime scene, the team sergeant shall make a determination regarding the magnitude of the investigation as quickly as possible. In **every** case, the team sergeant (or in the sergeant's absence, the acting sergeant) shall prepare a press release detailing the incident per Department approved press release guidelines. It is the responsibility of the team supervisor to recognize and understand the importance and urgency in completing and distributing press information in a timely manner and without undue delay. Every investigation is viewed differently in the eyes of the media and the content and timeliness of press release information can be a crucial factor in the way the incident is presented to the public. The supervisor should consider having a PIO from Public Affairs respond to the scene if investigative urgency exists or if the investigation entails:

- a. Any LFE involving a SBS member.
- b. Any incident where press persons are already present.
- c. A politically noteworthy or sensitive crime.
- d. Any "task force" type investigation.

The attending deputy coroner shall be apprised of the press release and a copy of the release will be e-mailed to the group titled "homicide press releases" and "coroner press release" in Outlook. Press releases will also be e-mailed to Public Affairs (also contained in the same e-mail group "homicide press releases"), and the involved station. Press releases will not contain the cause of death. The cause of death will be determined by the Coroner's Office.

Absent an assigned PIO, sergeants, or acting sergeants should be the only persons giving out press release information. Detectives should refer the press to Public Affairs, their sergeant, or the lieutenant. No press release shall contain any negative or derogatory statements toward any other department or agency.

In situations where the Specialized Investigations Division conducts an investigation for an outside agency (i.e.; LFE, in-custody death investigation, child abuse investigations etc.), that agency shall be responsible for preparing and disseminating the press release per the



MOA. The homicide team/CAC sergeant conducting the investigation may give their input into the content of the release. All calls or requests for information from the media to our Department shall be referred to the agency involved in the incident.

## **2.150. REPORT WRITING AND ROUTING**

Face sheets for newly assigned investigations shall be assigned a "Henry" and "C" number and completed within five working days. The Division lieutenant (or his designee) tracks and assigns "H" numbers to each new case. Detectives shall input the information received from their investigation into the INFORM system and notify the lieutenant or their designee, with an email containing a summary of the case and listing the case agent, DR# and H#. (for yearly statistical log/"Henry" board.)

The lieutenant shall [REDACTED] forward the copies of the email or INFORM document to the assigned division stat clerk. The stat clerk will enter the information into the required Tiburon/JIMS databases and Records homicide log, then store the copies in an annual H# binder for archival use. At the end of each calendar year, the stat clerk will turn the binder over to the Division lieutenant and start a new binder for the next year.

It is the responsibility of members of the Specialized Investigations Division to complete their investigative reports as soon as possible. These reports should be dictated as soon as possible of the completion of that phase of the investigation.

Investigators should have available a small hand-held voice recorder and utilize any non-productive time (i.e.; waiting for persons to show up, while your partner monitors a polygraph or interviews a non-critical witness by himself, or as a passenger on a long vehicle or airplane trip, etc.) to dictate reports. Investigators should dictate as many of their reports as possible.

Once a report is dictated, the investigator will complete a dictation instruction sheet and route the dictation and instructions to the assignment tray/computer folder. To prevent unnecessary overload to the Department's and to individual electronic mailboxes, digital dictation should be saved in the [REDACTED]. Any special instructions, spellings or other notations should be made on the dictation instruction sheet for the benefit of the transcribing office assistant/typist including the name of the digital file saved [REDACTED].

All verbatim requests must be approved by the Detail lieutenant for both LFE's and trials.

The assigned clerical staff supervisor or their designee will distribute the dictation assignments for typing. After the report has been typed, the office assistant will route the report to the investigator for proofing and corrections. When the investigator is satisfied with the report, he will initial the report and forward it to his sergeant for their review and

signature. Once reviewed and approved, the sergeant will return it to the investigator, who will make and distribute the appropriate copies.

Originals are maintained by the case agent with the case file.

Copy - P.D. or other affected agency.

Copies - As needed, i.e. District Attorney for a warrant, court, defense, multiple jurisdiction case, etc.

A disposition report (CR-4) will be completed and routed as follows:

- A) When a complaint has been filed or rejected.
- B) After preliminary hearing.
- C) After trial verdict.
- D) Upon release of property seized as evidence.
- E) Upon destruction of property.

## **2.152. CASE PHOTO FILES**

It is the responsibility of the case agent to maintain a copy/DVD of all case photographs with the work file. These may be used by staff and investigators to enhance their knowledge of a case. After a case is completed or it is no longer being actively worked, a copy of the photographs will be kept with the case file.

When 35mm photographs are obtained:

Photos in the case will be removed, wrapped, and taped. Identifying information as to the "Henry Number", the victim, and possible suspect shall be written on the outside of the package. The packaged photographs will then be filed by homicide number order in the photograph file cabinet located in the file room. This will be done in order to create a neat, orderly, and complete case file, and to ensure these photographs will be available for future use should the need arise.

When digital photographs are obtained:

Photos in the case will be maintained on a CD or DVD with the case file.

## **2.154. "HENRY" FILES/FILE ROOM**



[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**2.156. FILE ROOM ORGANIZATION**

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

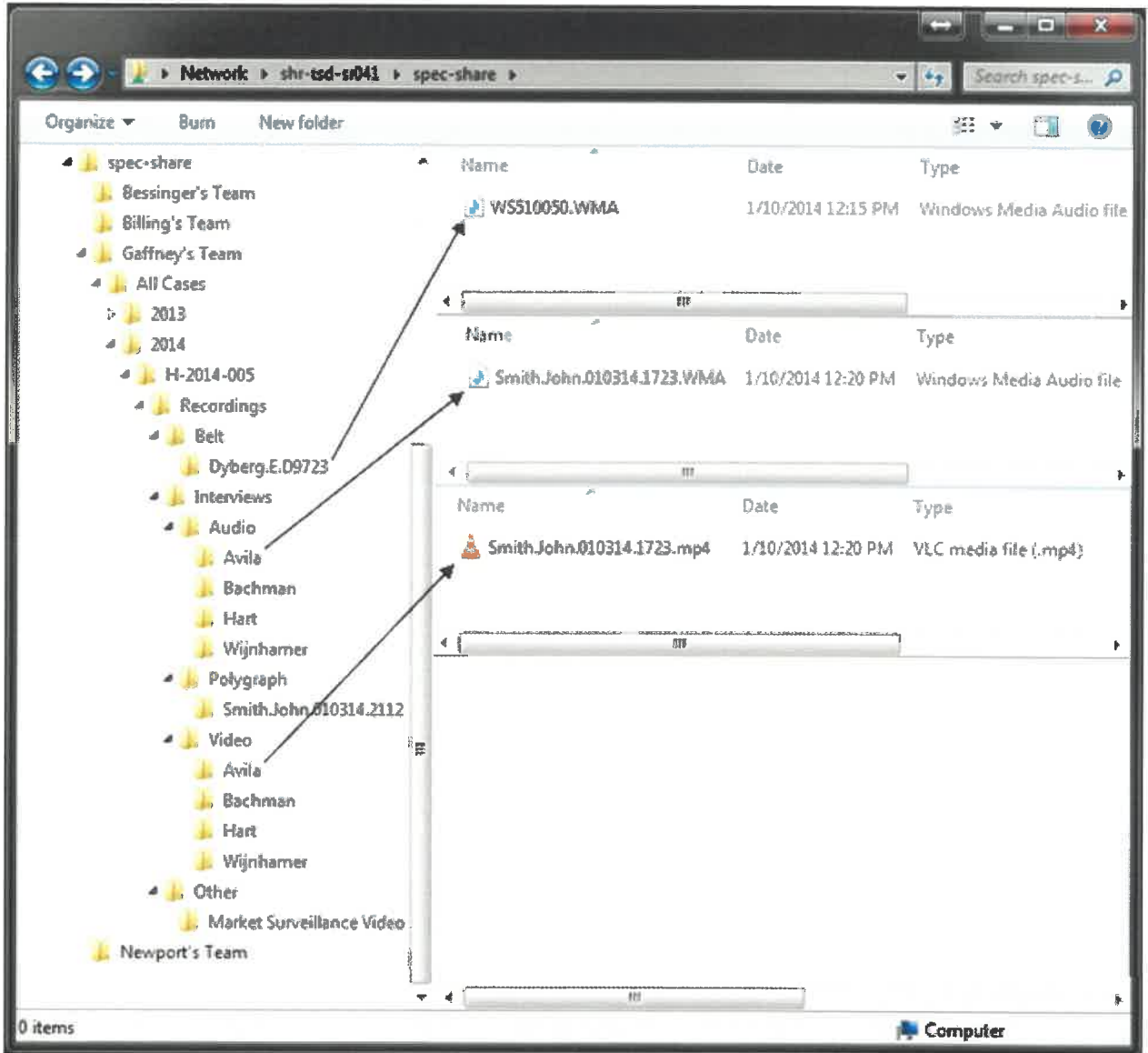
[REDACTED]

**2.158. VIDEO/AUDIO TAPE FILE MAINTENANCE/STORAGE**

[REDACTED]

[REDACTED]

[REDACTED]



Primarily, two types of CD/DVD media will be used for copying/storage of digital evidence. All "working copies" of digital evidence will be burned to the standard or generic silver Memorex, Imation or similar brand/quality disc. All "evidentiary copies" that will be stored as evidence at the Sheriff's Property Division will be burned to the higher quality "GOLD" Sheriff's Evidence discs.

Once the case has been adjudicated or the case is solved, and the case file is ready to be filed in the file room or sent to Records, the CD's and/or DVD's will be copied to a "GOLD" Sheriff's Evidence CD/DVD, placed into an evidence package, given an evidence tag, entered into PETS and taken to property for evidence storage. All interviews and digital recording evidence for unsolved cases shall be copied to a "GOLD" Sheriff's Evidence CD/DVD and placed into evidence within one year of the date of the incident and all working copy CD/DVD recordings will remain with the case file. All digital evidence that is placed into evidence at Sheriff's Property shall be burned to a "GOLD" Sheriff's Evidence disc.

When used in any of our investigations, audio and videotapes will be considered evidence. As evidence, they will be controlled (do not throw away) and preserved regardless of their quality. Even if the tapes come out blank they must still be preserved for discovery and to protect our credibility.

## **2.160. HOMICIDE ARCHIVE SCANNING**

The existing homicide historical database records cases going back to 1932. Over time, there have been a variety of ways to maintain and purge the detail case files, but they have all required a great deal of staff time and space to store and keep track of the massive amounts of paperwork that make up our case files.

Currently, the files are being scanned and converted to digital files that can be easily stored, searched and retrieved. The clerical staff is responsible for scanning all cases investigated by the homicide detail and uploading the files into the Records Imaging (RIS). The goal is to scan and upload all cases in the detail.

- Only **closed/exceptional** cases will be scanned. A closed case is defined as a case that has been solved or in some other way dispo'd with no further investigation required at any time. This would also include cases that are awaiting trial, not just cases where the court proceedings are done. There may be an occasional CR-4 Property Release form, evidence report, etc. that will show up after the case has been scanned. These forms will be scanned and appended to the uploaded file.
- Cases will be scanned by date, oldest to newest and on a needed basis.

The process of preparing and scanning a case is as follows:

Every detective/case agent is responsible for maintaining their case files/books. The case file should be organized (tabbed and indexed) in some chronological or some other easy to read/understand manner. The books shall remain in the possession of the primary case agents and/or the investigative teams until they are closed/cleared by arrest. Once a case has been made ready for court and all primary reports have been added to the file, it should be ready for scanning. In the case of a death investigation that is deemed to be natural, accidental, suicide, etc., or any other investigation where there is no future possibility of criminal or civil prosecution, it too should be made ready for scanning by giving the case to the team's clerical staff member. Each case shall have a CR4 for the disposition of the case before scanning can be completed. All digital CD/DVD's shall be placed into evidence by the case agent.

Completed LFE'S and In-Custody Death Investigations involving law enforcement personnel shall not be forwarded to clerical staff for prep and scanned into RIS.

After each case is scanned, the Lieutenant of the division shall approve the scan was completed and sign off on the case to be destroyed or in some incidences may ask that the case be retained in the file room.

## **2.162. INFORM**

Pending implementation...

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### 3.100. CALL-OUTS

During normal business hours, requests for services may come directly to the Homicide Detail office. The requests and accompanying information will be forwarded to the on-call sergeant as soon as possible. The sergeant, in turn, will cause notifications to be made at a minimum to:

- A) The Division captain and/or lieutenant
- B) Scientific Investigations via the CSI supervisor
- C) The Coroner (in cases of death)
- D) Other, i.e. Duty and/or Region Chief, Station and/or Duty Captain and if necessary Public Affairs or (LFE's or In Custody Deaths) Civil Liabilities.

After business hours, the sergeant will usually be contacted by a dispatch center. The sergeant will get information from the in-field supervisor and then will notify and brief his responding investigators. The sergeant will notify the CSI supervisor and Coroner if the call involves a death. The sergeant shall then respond to the scene as soon as possible with the appropriate investigators.

An investigator, when requested to respond by a supervisor, will respond as quickly as possible, properly attired and prepared to work.

The on-call sergeant shall immediately notify the Division lieutenant of all Lethal Force Encounters and Investigations that are of a sensitive nature, public safety concern, or investigations that attract mass members of the media.

It is the responsibility of the lieutenant to make sure to notify the Division commander of call-outs. On weekends and holidays, the homicide sergeant shall ascertain whether or not the duty captain has been made aware of the callout. If he has not, the sergeant shall ensure the notification is made (personally, through the station supervisor, or through e-mail notification) as soon as possible. In the event of an LFE or in-custody death, the homicide sergeant shall, as soon as possible, ensure that personnel from the Civil Liabilities Division have been notified and are responding, if appropriate. In most cases, the Division lieutenant should respond to LFE's or other call-outs as necessary. The Division lieutenant should be notified by phone of any LFE (hit or miss).

While on a call out, the sergeant should contact the detail commander with updates on new or major developments as necessary by phone or email. Periodic updates should also be given to the interested command staff, executive staff and Office of the Sheriff by email. Prior to clearing the scene or station, the lieutenant should be advised of the disposition of the investigation.

### 3.102. REQUESTING CRIME SCENE INVESTIGATORS / CRIMINALISTS

All requests for forensic specialists should be made through the CSI/CSS supervisor. Since the forensic specialists work on a rotating call basis very similar to the homicide teams, it is imperative that the forensic rotation is not disrupted or interfered with in any way. Do NOT call the forensic personnel directly or make special requests for them to respond without prior approval from their supervisor.

During normal business hours, the supervisor can be contacted directly by phone at the Sheriff's Crime Lab. The sergeant or investigator making the request should be prepared to forward available pertinent information (i.e.; location of the incident, number and/or location of known victims, etc.) to the supervisor so he can make the appropriate assignment(s) to his available forensic personnel.

After normal business hours, the CSI/CSS supervisor can be reached via Dispatch through their cellular phone. Once notified, they will make the appropriate assignment(s) to their personnel. Requests for additional CSI/CSS personnel can be made through the on-scene forensic specialist, to their supervisor, on behalf of the requesting homicide/CAC sergeant.

Generally, the decision to request a criminalist is not made until investigators and forensic personnel have been to the scene and had an opportunity to determine the need for one. If it is determined a criminalist is needed; the on-scene forensic specialist can make the request through their supervisor on behalf of the requesting homicide/CAC sergeant.

Forensic specialist, criminalists, coroner investigators, and any other personnel assisting from the Scientific Investigations Division or Coroner's Division are a vital part of the investigative team. Keeping this in mind, the **primary responsibility** of the crime scene investigation falls upon the homicide/CAC detective assigned to the scene. He/she will be accountable to the prosecution, defense, and any other authority as to the integrity of the scene and for the evidence collected (or not collected), documented, photographed or processed at the scene. The investigator should be diligent in preserving the scene by ensuring that a crime scene log is being used and limiting the amount of foot traffic within the scene. The homicide/CAC detective shall ensure the scene is sufficient in size and thoroughly processed. The homicide/CAC detective shall stay with the forensic personnel as much as possible while they are within the scene in order to ensure proper documentation and scene integrity. **When appropriate, and as often as possible, the Faro 3D scanner should be used to document the crime scene.**

### **3.104. CORONER NOTIFICATION**

Generally, the Coroner's Division should be contacted immediately after the discovery of the body. In some instances, the station with jurisdiction of the scene will notify the coroner of the discovery. However, in most cases, the responsibility will be passed on to the Division sergeant.

In every case, whether the station has contacted the Coroner's Office or not, the homicide team sergeant should contact the on-call deputy coroner and advise them of the circumstances of the case. This should be done, if possible, prior to the homicide team arriving on scene (or as soon as possible thereafter.)

Once notified, it will be up to the discretion of the deputy coroner whether to respond to the scene immediately or wait until some point later when the victim can be approached without contaminating the crime scene. It will be up to the homicide sergeant on scene to determine at what point the deputy coroner may enter the crime scene. No Coroner Division or **ANY** person should be allowed into a crime scene without expressed permission from the case agent or detective in charge of the crime scene investigation.

If a search of the victim's clothing is necessary for identification or if fingerprints, a sexual assault kit or other forensic tests on the victim are required to be made at the crime scene, permission must first be obtained from the Coroner's Division to do so.

Remember the deputy coroner may be used to assist in cases where the body temperature or other evidence on the body of the decedent may help with time of death.

### **3.106. NEXT-OF-KIN NOTIFICATIONS**

Generally, next-of-kin death notifications are the responsibility of the Coroner Division. However, in many instances (particularly in murder investigations) such notifications are best made by members of the homicide team working the case. The Coroner Division is aware of this and has agreed not to make next-of-kin notifications without first consulting with the team sergeant or case agent to make sure that the investigation will not be compromised by them making the notification. As a general rule of thumb, the team conducting the investigation should make next-of-kin notification whenever possible, in order to secure initial information and/or first-hand interviews with family members as soon as possible. In such circumstances, the Deputy Coroner Investigator assigned to the case should be made aware and given the opportunity to be present at the time of the notification. If there is no investigative reason for a homicide team member to make notification, the Deputy Coroner Investigator assigned to the case should be made aware, so they can arrange to make notification themselves.

### **3.108. REQUESTING ASSISTANCE FROM OTHER DETAILS / DIVISIONS**

It is not uncommon for members of the Homicide Detail to call on the assistance of members of other details or divisions within the Department. This is especially true of the Specialized Enforcement Division (SED) and the Regional Gang Team when it involves covert surveillance for a suspect, a high-risk entry, search warrant service or the investigation involves gang members.

In every case where a homicide team enlists the assistance of a team or members of another detail or division, the homicide team/CAC sergeant shall contact the Division lieutenant as soon as time permits.

The homicide sergeant shall contact the Crimes Against Children Detail when an investigation involves the death of a child. This includes homicides, suspicious deaths, or incidents involving child witnesses. In the event of a child death, the homicide sergeant shall notify the Crimes Against Children sergeant and request a detective to respond to the scene and assist the homicide team. The requests shall not be made from one detective to another without the approval being made between the Homicide and CAC sergeants. The assigned CAC detective will be under the auspices of that homicide team sergeant for the duration of the investigation.

All requests for travel assistance (for investigative purposes) from the Aviation Division must go through the captain or the lieutenant of the Aviation Division. Do **not** contact the pilots directly to arrange travel flights. Common, everyday assistance from the Aviation Division, such as photo flights, aerial fly-overs/searches of a scene, etc., can and should be made by the team sergeant directly to the on-duty flight crew.

### **3.110. AFTER HOURS SEARCH WARRANTS**

Beginning March 2012, the courts began using electronic technology for on-call judges to review and sign search warrants after hours. Officers are requested to ensure all after hours warrants submitted meet the urgency requiring it to be issued outside standard court hours.

The court protocol currently assigns three judges per week, rotating every Tuesday, for on-call duties – one for the east valley, one for the west valley and one for the desert areas. The on-call judge phone list is provided to dispatch and contains contact numbers for each on-call judge for that week. Every judge responsible for on-call duty is assigned their own personal I-Pad so they can receive, review, sign and electronically return search warrants submitted to them by law enforcement.

The officer can electronically submit after hours “e-warrants”, as an alternative to faxing the on-call judge a warrant. The e-warrant system permits officers to submit search warrants, Ramey arrest warrants, bail increases, GPS warrants, DUI warrants and Emergency

Protection Orders. Templates for each warrant type are available in the Specialized Share Drive. The e-warrant system allows officers to submit their warrant and cover page directly into the court server. The on-call e-warrant search warrant protocol is as follows:

Law enforcement officers access the server website at [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- a. The document has been processed by the server and notification is sent to the on-call judge.
- b. The judge begins reviewing the warrant.
- c. The judge has approved or rejected the warrant.

If the warrant is rejected, the officer will also receive an email which may contain the reason for the rejection. If the warrant is approved, the officer will receive an email containing an access code to retrieve a PDF version of the submitted

**3.112. DEATH INVESTIGATIONS**

Many times, the Homicide Detail is requested to respond to the scenes of suspicious deaths. Occasionally, these deaths are determined to be homicides, but many are found to be suicides, from natural causes or accidents.

A suspicious death investigation shall be conducted with the same integrity and thoroughness as a homicide investigation. When the investigation reveals that the death was not homicidal in nature, it may be returned to the station for further follow-up (if a significant amount of staff time has been expended prior to determining the nature of the case, it is recommended that it be completed by the homicide detail.) No case will be turned back over to the station without approval and agreement of both the investigating

homicide sergeant and the station supervisor. If the station supervisor or command staff requests our detail complete the investigation, the request will be honored without complaint.

Nonetheless, the Homicide Detail will complete a homicide work file affixed with an "H" number.

### **3.114. IN-CUSTODY DEATHS**

In compliance with both California reporting requirements per Government Code (Sec. 12525) and the Sheriff's Manual (Sec. 3.228), all deaths of prisoners or inmates in the custody of the San Bernardino Sheriff's Department will be investigated by the Sheriff's Homicide Detail. The only exception to this is a vehicle pursuit (FTY) where the suspect vehicle has a traffic collision during the pursuit and one or more of the occupants of the suspect vehicle are killed as a result of the collision. If this occurs, the Region MAIT Team will conduct the investigation. If the MAIT Team responsible for the investigation asks for the Homicide Detail's assistance, we will assist, however, the primary responsibility of the investigation will remain with MAIT.

With the passage of the Federal *Death in Custody Reporting Act of 2000* (PL 106-297), state and local agencies are also required to report in-custody death information to the U.S. Attorney General DOJ Bureau of Justice Statistics (BJS) via the Criminal Justice Statistics Center (CJSC.)

The term "custody" is defined as "...if the suspect is physically deprived of his freedom of action in any way or is led to believe, as a reasonable person, that he is so deprived." See *People v. Arnold* (1967) 66 Cal.2d 438,448.

Examples of "in-custody" deaths include; the death of any arrested person booked as an inmate in one of our jail facilities or a medical facility, the death of any arrested person at one of our jail facilities awaiting booking, the death of any person being detained or in the process of being arrested by an officer in the field, the death of any person as a result of any use of force by an officer during the course of a detention, arrest or any other lawful contact by law enforcement.

Arrest-related deaths are also now considered reportable. According to the U.S. DOJ Arrest-Related Deaths (ARD) program requirements, the definition of an "arrest-related" death is when the event causing the death (e.g., gunshot wound, self-inflicted injury, cardiac arrest, fall from a height, drowning, etc.) occurs during an interaction with state or local law enforcement personnel. An "arrest-related" death can occur prior to, during, or following an arrest. For the purposes of the ARD program, reportable civilian deaths include those that occur:

- While detained for questioning or investigation (e.g., Terry stop)
- During law enforcement response to medical or mental health assistance
- During the process of apprehension, such as pursuits or standoffs
- In the custody of, or shortly after restraint by, law enforcement personnel (even if the person was not formally under arrest.)
- While in transport to or from law enforcement or medical facilities
- While confined in lockups or booking centers (i.e., facilities from which arrestees are usually transferred within 72 hours and not held beyond arraignment)

In the event of any in-custody or arrest-related death, the homicide sergeant shall ensure the scene is properly secured (if necessary) and assign the appropriate number of personnel to handle the investigation. When the death occurs in the field, it should be handled in the same manner as a homicide investigation. When the death occurs at one of our jail facilities or hospital jail ward, a coordinated effort should be made with jail personnel to obtain copies of all relevant inmate paperwork (booking information, medical treatment history, discipline and movement history, etc.)

Regional MAIT shall conduct an investigation when a suspect vehicle is pursued (FTY) by Sheriff's deputies and the vehicle is involved in a traffic collision resulting in the death of the suspect, any occupants in the suspect vehicle, or any bystanders. The MAIT supervisor shall be responsible for filling out the DOJ Death In-Custody Reporting Forms (BCIA 713 and CJ-11A). These forms will be filled out with all the information and sent either by fax or email to the Specialized Investigations Division lieutenant within 10 days of the suspect's death. The Specialized Investigations Division lieutenant will check and log the forms, then send them to DOJ.

In cases where the inmate death is suspicious and unexpected (no known or ongoing medical issues, etc.) every effort should be made to interview all necessary inmates who had contact or were housed with the decedent inmate. All interviews shall be recorded.

In every in-custody or arrest-related death investigation, an autopsy shall be conducted, whether or not the inmate was under a doctor's care or had a previously known medical condition. If a conflict arises with the Coroner's Office not wanting to perform an autopsy under these circumstances, it should be immediately brought to the attention of the team sergeant or detail commander so the request for an autopsy can be made through the appropriate chain of command. Currently, all autopsies for in-custody deaths occurring in SBSD jurisdiction are performed by the Riverside County Coroners' Office.

Outside agencies may request the assistance of the Sheriff's Homicide Detail in conducting an investigation regarding a death occurring while in the custody of that agency (prior to their arrival at a jail/booking facility) and not in the custody of the Sheriff. If such a request is made, the protocol and procedures outlined in REQUESTS FROM OUTSIDE AGENCIES shall be followed (refer to page 53 of this manual).

The inmates' property shall be collected by the homicide detectives and delivered to the Coroner Division when the coroner investigator is not on scene to take the property. A CR-3/CR-4 report form shall be filled out showing the property was delivered to the Coroner Division.

It is the duty of the investigating homicide sergeant to forward a copy of the DOJ Death In-Custody Reporting Form (CJSC or BCIA 713 – rev. 9/03, or newer), to the California State Attorney General within ten (10) days after the death (as required per Government Code 12525.) Also required by Federal guidelines, the DOJ BJS form CJ-11A must be completed and submitted as well. Both completed forms should be sent to the California DOJ at the address below.

In addition, a complete copy of the investigation shall be forwarded to the agency or division where the death occurred (including any outside agency where the inmate died while under their control but prior to being booked at one of our facilities), for civil liability purposes; or, a complete copy will be forwarded to the supervisor of Administrative Support Unit at WVDC, for inmate death review purposes. The Administrative Support Unit is mandated by Title XV of the California Code of Regulations to fully review every in-custody death investigation that occurs within a jail facility. In some cases, the Civil Liabilities Division may also request a copy of the investigation.

This investigation shall contain not only the homicide investigation, but shall include any incident reports, coroner's reports, death certificate, medical records, if applicable, etc.

The quarterly and annual DOJ in custody death reconciliation reports shall be completed and submitted by the Administrative Sergeant. All necessary DOJ report forms can be found in the Homicide shared file.

DOJ reports shall be forwarded to:

Department of Justice  
Death in Custody  
P.O. Box 903427  
Sacramento, CA 94203-4270

The telephone number is: (916) 227-3549

Fax number: (916) 227-0427



### **3.116. LETHAL FORCE ENCOUNTERS (LFE'S)**

As covered in the Dept. Policy Manual (3.640) the Sheriff's Homicide Detail is responsible for the investigation of all Lethal Force Encounters where a member of this Department is injured, or inflicts injuries upon a citizen by the use of Lethal Force or when a member of the Department fires a firearm at a person and there are no injuries.

Lethal Force Encounters- Defined:

1. Unintentionally discharges a firearm and causes death or great bodily injury (GBI);
2. Intentionally uses any other form of lethal force and causes GBI or death; or,
3. Intentionally uses less than lethal force that results in death;

The Specialized Investigations Division Commander or his designee, in consultation with the affected Deputy Chief, may use the LFE process in the situations described above, based on the circumstances.



The complexity of this subject is such that a policy cannot be formulated to cover every facet of these cases; therefore, the following policies are intended to be general guidelines for the delineation of responsibilities of the various Department personnel and work groups involved in LFE investigations.

The specific duty of the Detail is to provide a fair, impartial, and complete investigation into the criminal aspects of the case. Penal Code Sections 187 through 199, the same sections as any other homicide investigation, cover an LFE where a citizen dies.

Normally, the Homicide Detail responds to an LFE scene and personnel from Civil Liabilities and the Department's contract psychologist staff will respond (3.640.30 and 3.640.35) to evaluate the incident and speak to the officer(s.) Their presence shall not interfere with the criminal investigation; they will do separate inquiry into the incident regarding areas of civil liability relating to the officer and the county and will assist the officer(s) with the post-traumatic emotional and psychological issues. All interviews conducted by these personnel will be completed after the Homicide Detail has finished their criminal investigation.

A normal process for an LFE will run as follows:

1. The call-out. This includes all notifications to detectives, CSS's, Coroner, Civil Liabilities and the Division command. Also confirming the Executive Staff and Office of the Sheriff, on-duty captain and the station captain and lieutenant are notified. Public Affairs may also be notified at this time.
2. Response to the scene and incident station, including the Crime Lab/CSS.

3. Investigation at the scene and collection of evidence.
4. Recorded interviews with the shooting and eyewitness officers, suspects, on scene supervisor (watch commander) and all other non-law enforcement witnesses.
5. A scene walk-through by the officer(s), if necessary.
6. A press release is made by homicide or Public Affairs.
7. 
8. The completed case is taken to the district attorney for review.
9. 

Remember that LFE's are the most important and critical investigations that our detail handles. Our investigation can and does affect policy, training, and morale throughout the entire Department. ~~With this in mind,~~ Homicide investigators shall present a fair, impartial, and professional demeanor at all times.

### **3.118. REQUESTS FROM OUTSIDE AGENCIES**

Department protocol dictates requests from other jurisdictions or departments, be made through the Office of the Sheriff. If contacted by dispatch or an officer from another agency to respond to investigate an incident for their department, the same procedure should be used as we would for a normal call-out, but, (other than an O.I.S. or an In-Custody Death with departments that have a MOA with our Department) it should be cleared with the Division commander prior to response. If an on-call sergeant receives a call from an outside agency or dispatch, the sergeant shall ascertain from dispatch or the agency from which the request is being made, who they are, what their authority is, and how they can be contacted. This information should be provided to the Division commander upon notification. Department protocol requires that the request come from their chief of police or his designee. The Division lieutenant will give direction upon confirmation with the Executive Staff. In almost every case, the team receiving the call should prepare to respond immediately, however, do not assume responsibility for the investigation until given authorization.

The Homicide Detail presently has MOA's with several outside agencies to conduct Lethal Force Encounter (LFE) investigations and in-custody death investigations that occur within

the incorporated cities of Barstow PD, Chino PD, Colton PD, Fontana PD, Montclair PD, Redlands PD, Rialto PD, Upland PD, San Bernardino County Probation Department, San Bernardino County District Attorney investigators and an MOU with the CHP.

Each outside agency has its own unique needs and expectations when confronted with a Lethal Force Encounter. When asked to conduct such an investigation, the homicide team should follow the long-established protocols and procedures regularly used in these types of investigations.

If an issue or conflict arises regarding how the outside agency would “prefer” us to handle a particular aspect of the case, versus how we “normally” handle it, the homicide team sergeant (or lieutenant, if on scene) should address the problem(s) with tact and diplomacy, keeping in mind that preserving the involved officer’s rights and the thoroughness of the investigation is the primary goal. If the situation cannot be adequately resolved by the homicide sergeant, they should immediately notify the Division lieutenant, so it can be addressed at a commander to commander level.

A copy of all MOA's and the CHP MOU are kept in the Division lieutenant's office with a hard copy of the Homicide Detail Procedure Manual.

### **3.118.10 CHP LFE'S**

The on-scene California Highway Patrol supervisor will be responsible for stabilizing and securing the shooting scene. California Highway Patrol personnel, including members of the Critical Incident Investigation Team, will not enter the shooting scene until the arrival and approval of the Sheriff's Shooting Team supervisor. Upon arrival at the shooting scene, the Sheriff's Shooting Team will contact the assigned California Highway Patrol Liaison and coordinate resources as the primary investigating agency. The on-scene California Highway Patrol Liaison will be responsible for ensuring that the Critical Incident Investigation Team personnel cooperate with and assist the members of the Homicide Detail during the criminal investigation as needed.

The California Highway Patrol and the San Bernardino County Sheriff's Department agree that California Highway Patrol personnel involved in the LFE may be removed from the scene and transported to the nearest California Highway Patrol office to wait for the arrival of the homicide team. While at the office, involved CHP personnel should be made comfortable, allowed to call their families, but should be cautioned to refrain from talking about the shooting incident (with other officers or family members), except for their legal or union representative or members of the homicide team.

The California Highway Patrol and the San Bernardino County Sheriff's Department agree that members of the Homicide team will conduct voluntary interviews of CHP personnel involved in the LFE during the criminal investigation. If CHP personnel request to speak to

and/or have their legal or union representative present, the homicide team will not proceed with the interview(s) until their request is honored. Refer to CHP MOU for additional details.

### **3.120. OFF-DUTY SHOOTINGS INVOLVING OUTSIDE AGENCIES**

There are occasions when officers from outside agencies become involved in off-duty shooting incidents within the Sheriff's Department jurisdiction. These incidents can become highly sensitive based on the circumstances or agency involved and may or may not involve a fatality. Shootings involving off-duty law enforcement personnel present unique circumstances that should be looked at from a variety of viewpoints in order to determine what type of incident should be investigated. They are; did the involved officer somehow place him/herself "on-duty" or identify themselves as law enforcement in any way; or, did they act in an official capacity based on their statements or actions in the moments leading up to the shooting; or, were the officer's actions in response to a perceived threat consistent with that of any other citizen legally allowed to possess/carry a firearm; or, were the officers' actions clearly in self-defense or the defense of others as it relates to them being a victim of a crime.

Although the homicide detail does not typically investigate non-death related incidents, a non-fatal, off-duty law enforcement shooting incident may be one exception. When we are called regarding situations such as this, the on-call homicide sergeant should obtain as much information about the involved officer and their actions leading up to the shooting as possible in order to determine if the incident is, in fact, an LFE or if the off-duty officer responded with deadly force as the victim of a crime. If a specific request to respond is made by the station commander (or their designee) where the incident occurred, then we shall respond and conduct the investigation. If no specific request is made, the on-call homicide sergeant should notify and consult with the detail commander before committing to respond. In most instances, this type of shooting incident should be investigated by the homicide detail due to the sensitivity and potential high-profile nature of the case.

### **3.122. SBSB EMPLOYEE LFE's IN OUTSIDE JURISDICTIONS**

There are occasions when deputies from the San Bernardino County Sheriff's Department become involved in an LFE occurring within other jurisdictions. When this occurs, Sheriff's Dispatch will notify the first-call team sergeant. Homicide will respond with a **"liaison team"** consisting of a sergeant and detective in each instance. Dependent upon the nature of the event, the homicide lieutenant may at his discretion send additional detectives. The purpose of the **"liaison team"** is to coordinate with the investigating officers from the jurisdiction where the LFE occurred. **WE WILL NOT CONDUCT A PARALLEL CRIMINAL INVESTIGATION!** If, however, the agency of jurisdiction is reluctant or refuses to do the investigation, the homicide detail will take over and conduct the investigation forthwith.

The **"liaison team"** will be responsible for the following:

- Making contact with the shooting team investigative supervisor and get briefed on the circumstances of the incident.
- Requesting permission to accompany their investigators whenever possible during the investigation, scene, interviews, etc. (We should not interrupt their investigation, but we should be allowed to ask questions and politely make requests.)
- Obtain our own Departmental case number and prepare a face sheet/CR-1.
- Obtain copies of all reports.
- Obtain copies of all photographs.
- Obtain copies of all recordings.

[REDACTED]

### **3.124. LETHAL FORCE ENCOUNTER (LFE) INVESTIGATIONS**

Generally, most deadly force incidents investigated by the Homicide Detail are Lethal Force Encounters. However, a deadly force incident can include one that occurs during the course of an arrest, detention (which would typically be considered an in-custody or arrest-related death) or other lawful contact, particularly after a foot pursuit or physical struggle between officers and a suspect. This type of incident should be handled the same as any other LFE.

Per Department Policy an LFE is defined as:

Any time a deputy intentionally discharges a firearm at a person, whether or not he is struck by the fired rounds.

The LFE process may also be used to investigate situations in which a deputy:

1. Unintentionally discharges a firearm and causes death or great bodily injury (GBI);
2. Intentionally uses any other form of lethal force and causes GBI, or death; or,
3. Intentionally uses less than lethal force that results in death;

The Specialized Investigations Division Commander or his designee, in consultation with the affected Deputy Chief, may use the LFE process in the situations described above, based on the circumstances.

The complexity of this subject is such that a policy cannot be formulated to cover every facet of these cases; therefore, the following policies are intended to be general guidelines for the delineation of responsibilities of the various Department personnel and work groups involved in LFE investigations.

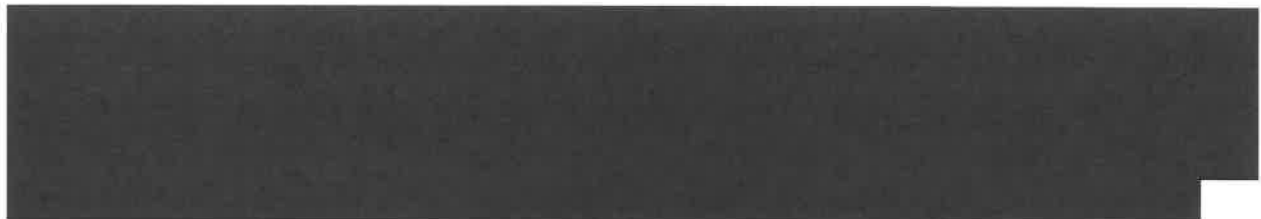
### **3.124.10 LFE Call-Outs**

Upon receiving a call-out to an LFE, the responding Homicide Detail sergeant (all LFE's will have a homicide detail sergeant respond) shall obtain as much information as possible regarding the incident, i.e.: location, number of personnel involved, names of personnel, extent of the scene, injuries/death of suspect(s) and/or deputies, a brief synopsis of the events, etc. The sergeant shall immediately advise the Division lieutenant by phone call, or in his absence, the captain, of the request for assistance, then notify the homicide team, and the Scientific Investigations Division of the call; they also will be informed, if possible, of all pertinent facts available. At a minimum, two CSS personnel will respond to any LFE. In cases where there is a death, the On-Call Coroner will also be notified. The lieutenant may respond to the incident if necessary to assist the detail sergeant.

Because this county is so large and response times can be delayed, the homicide duty team supervisor should contact the requesting agency or station by telephone and make arrangements regarding scene security, evidence protection/collection, etc., prior to responding to the scene. This includes personnel to remain at the hospital with any subjects if necessary.

The responding supervisor should give some consideration to the distance in time. If the scene is many miles away, i.e., Trona, Baker, Needles, etc., and time is a factor, think about contacting aviation and arranging to fly some investigators to the scene. If the Aviation Division is needed, advise the Detail lieutenant to make flight arraignments.

In all cases, the supervisor shall have a least one investigator respond directly to the scene to supervise and control the crime scene. This investigator can begin to perform required work prior to the arrival of other personnel.



### **3.124.20 The Scene**

Upon arrival at the scene, the deputy(s) involved in the LFE will generally not be there; they are usually at the hospital, if injured, or the station. The foremost responsibility of the Homicide Detail investigators is to make sure the crime scene is secure, large enough. The homicide sergeant and detectives need to determine the size and scope of the scene. If the scene is not big enough, then they should expand the scene. If there are multiple scenes, the sergeant must ensure those are secured as well. Remember that bullets travel significant distances, so be aware of trajectories and additional bullet strikes downrange from the initial shooting scene. Obtain a list of all persons present and those that were at

the scene before your arrival. A sergeant should make every effort to have the person who controlled the scene before his/her arrival at the briefing. That person most likely would have the most knowledge of the scene or have information about potential witnesses and preliminary interviews.

Another important factor to be aware of and consider is the number of interviews to be completed. If necessary, additional homicide detectives may be needed to respond to assist with the investigation and interviews. If possible, prior to any assignments being made, these additional personnel should respond to the scene for a briefing by the "on scene" homicide sergeant so they will have knowledge of what occurred. These additional detectives are generally best utilized for conducting interviews. They can make the necessary neighborhood canvas or be used to interview the involved officers or witnesses to the event.

In rare cases, it may be necessary to have the deputy(s) involved in the shooting return to the scene to give a scene "walk-through," after the deputy(s) have been interviewed. The deputy(s) should show the investigators where they were standing, where they moved to or from; where they were when they fired, in what direction and how many times they fired, and where the suspect or other persons were, etc. This "walk-through" should be complete in order to give the homicide investigators a clearer picture of what transpired. Be sure that any deceased person(s) and evidence (except involved vehicles) have been removed from the scene prior to the "walk-through." Just as any other interview, the "walk-through" will be audio recorded.

The actual investigation of the scene should be conducted with the same integrity as any other homicide investigation. All evidence, i.e., bloodstains, bullet strikes, fired cartridge casings, etc., will be photographed, documented, and measured before retrieval or removal.

To be certain that this evidence will still be in its original location when the measurements begin, crime scene control must be in effect. LFE incidents draw large crowds, bystanders, press, other officers, etc. Remember, you must control the scene and keep down the influx of personnel as much as possible.

### **3.124.30 Interviews**

The most important and most difficult aspect of an LFE investigation are the interviews. It is the homicide investigators job to ensure ALL interviews are done in a professional manner and all possible aspects of the LFE are covered.

One of the most important points to remember is the LFE usually stems or escalates from another event. The role of the homicide investigators is to investigate the LFE; however, there may be occasions when this will entail investigating the entire incident (i.e., PC 211, PC 245, etc.) All this information goes toward the state of mind of the deputy(s) involved in the LFE.

There are four general categories of persons to be interviewed:

1. Citizens not involved in the incident,
2. Citizens that were involved as victims or suspects,
3. The officer(s) involved in the shooting,
4. The On-Scene supervisor (watch commander)
4. Witness officer(s) who were present but not involved in the shooting.

Guidelines for prioritizing interviews are as follows:

1. Citizens not involved in the shooting:
  - a. Should be interviewed first.
  - b. They should be removed from the scene as soon as possible and taken to the station if they are freely willing to go.
  - c. Multiple witnesses should be kept separate and interviewed individually.
  - d. Their interviews should be done by homicide investigators and shall be recorded.
2. Citizens involved in the shooting as either suspects or witnesses:
  - a. They probably will have been removed from the scene prior to the arrival of the homicide investigators; they will be either at the station or a local medical facility.
  - b. Multiple witnesses should be kept and housed separately.
  - c. These interviews shall be done by the homicide investigators and shall be recorded.
3. Witness deputies not directly involved in the actual shooting incident and all field supervisors (watch commanders)
  - a. They may or may not be at the scene upon the arrival of homicide, but should be taken from the scene to the station for best interview results.
  - b. Multiple officers should be kept separated, but should not be made to feel isolated and alone. They can, under some circumstances, be left together, but they should be asked not to discuss the incident with each other and explain why.
  - c. Homicide investigators shall interview all non-shooting eyewitness officers and all field supervisors (watch commanders). Their interviews shall be recorded.

Explain to all officers that our job is to investigate the LFE only from a criminal standpoint, not civil or administrative. Explain that our detail does not determine whether the LFE was in or out of Department policy. We conduct the investigation and forward it to the District Attorney's Office for review.

The Homicide Detail ONLY interviews the deputy(s) if the statement is voluntary. Be sure to clarify this on tape.



It is important that the Detail's LFE Interview Information sheet questions are used and ALL the questions on the sheet are asked and answered by the deputy(s) who used lethal force. We do not want to ask the questions on the sheet in a robotic fashion, but as a checklist to make sure all the information is obtained. All LFE interviews of the deputy(s), eye witness deputy(s) and in field supervisors are done by two members of the Homicide Detail.

The primary focus of the interview should be to gather all the facts the officer has and to understand their "state of mind" at the time of the LFE. In every interview, some of the key issues to try to ascertain should include; the reason or Probable Cause for the contact with the suspect, the circumstances that led the deputy(s) to make a decision to use deadly force (what were the suspects actions that caused the deputy to feel deadly force had to be used) and what was the deputy(s) intended goal or expected outcome as a result of using deadly force (did they use deadly force to protect their life, protect the life of another officer or citizen or stop the suspect from fleeing or further endangering someone else, etc.) And what did the deputy(s) believe would happen to them or someone else, if deadly force was not used. It is imperative to get as clear a picture of the deputy's thoughts, emotions, actions and perceptions as possible. This may help the investigator(s) understand why certain things were or were not done.

The secondary focus is to relate the witnesses or deputy's statements with the scene and vice-versa. If something does not fit or make sense to the evidence at the scene, make sure to go back and clarify with the deputy(s) or witnesses if necessary so that the picture of what occurred is as clear as possible. For this reason, it is important that the detectives conducting the interviews should be present during the initial scene briefing and walkthrough. Be careful not to ask leading questions when clarifying anything – we **do not** and **should not** put words into the officers' mouths. The purpose is to clarify facts/information, not to create it. If it requires the deputy(s) to conduct a scene walk through for clarification purposes, it should be done when appropriate and should be handled as a continuation of their interview; not a re-interview.

An LFE is an emotionally charged and highly stressful event for everyone involved. When interviewing involved deputies, be mindful of their emotional state of mind immediately after the incident. If it appears that the deputy(s) is too shaken or not emotionally stable enough to finish or complete the interview at that time, it should be postponed until another time (as soon as possible, however) when the officer is better able to make a statement. However, if the officer is emotionally up to being interviewed, that interview should take place as soon as possible after the incident.

Some outside agencies and attorneys prefer to have their officers interviewed 48 to 72 hours after the LFE occurred. If this is the case, the request should be granted.

Sometimes deputies who did not directly witness the actual shooting can be requested to submit a detailed written report describing their actions. This practice can be used

particularly for deputies who responded to the scene after the shooting, or accompanied a victim/suspect to the hospital and witnessed a medical procedure, BA test, etc.

4. Deputy(s) directly involved in the LFE:

- a. Generally, these deputies will not be at the scene upon the arrival of the Homicide Detail. Although it may be necessary for them to respond back to the scene later for a "walk-through," to clear up any questions of location, actions, etc.
- b. It is extremely important that these deputies not be made to feel isolated or alone. Remember to treat them as victims and not suspects.
- c. All deputies directly involved in an LFE will be interviewed by homicide investigators and not requested or required to submit a written report of any kind.

**Important Note** - It is critical to determine if the involved deputy(s) has been "ordered" by anyone to talk to homicide investigators. **If the deputy(s) been ordered to talk, no interview will be conducted unless the order is rescinded AND the deputy(s) re-initiates contact on their own to be voluntarily interviewed.** It is important to make sure if the order is rescinded that the deputy interview is completely voluntary and that the voluntariness is clearly laid out on tape. Even then, caution should be exercised to ensure the deputy's rights are not violated. It is the responsibility of the interviewing investigators or their sergeant to ascertain the circumstances behind why the deputy(s) was ordered to talk, prior to conducting the interview.

- d. It is not uncommon (particularly with officers from outside agencies) for involved officers to request to speak to a POA representative or legal counsel before they are interviewed. If this occurs, make every effort to give them ample opportunity to do so. It shall not be the policy of this detail to deny any officer their legal right to representation.
- e. If, after speaking with their attorney, a deputy invokes their Fifth Amendment rights and chooses not to make a voluntary statement, the invocation shall be accepted. The investigator should then ask the deputy to briefly go on tape and decline to make a statement "on the record."
- f. The involved deputy(s) may choose to make a statement later, with or without legal representation. If such a situation arises, at the onset of the interview the investigator should confirm the voluntariness of the statement and ensure the deputy has not been ordered or coerced to talk. The investigator should also advise the involved deputy(s) of the following:

- Homicide's purpose for being there is to conduct the criminal portion of the LFE investigation.
- Every effort will be made to obtain the most accurate and detailed information regarding the shooting as possible. This includes details and facts leading up to, during and after the LFE.
- The interview will be part of the criminal investigation and will be reviewed by the District Attorney's Office.
- The interview can, and likely will, also be used as part of the Department's Investigation.
- If the deputy has not requested to speak with an attorney, advise them that they have the right to have representation during the interview.
- The above advisal and the deputy's statement concerning the free and voluntariness of the interview shall be recorded. Homicide Detail Detectives shall use their issued LFE questionnaire so no questions are forgotten during the interview.
  - g. If no statement is ever made to criminal investigators by an involved deputy, the deputy's compelled statement may be obtained by the District Attorney per Penal Code section 832.7 to assist in their review of the case.

Remember: **ALL** interviews shall be **RECORDED!**

### **3.124.40 Evidence**

Evidence taken at an LFE scene should be handled the same as any evidence seized in a homicide investigation.

Any Taser activations, recordings of 9-1-1 calls, and radio traffic between the officers and dispatch are extremely important to collect as evidence in an LFE. Tasers will be downloaded and when appropriate, will be sent to the Training Division for a functions test. 9-1-1 calls and dispatch recordings will be summarized at a minimum and if necessary will be typed in a verbatim.

Civil Liabilities carries replacement weapons; communicate with them for replacement when taking a deputy's weapon for evidence. The deputy's weapon and all ammunition will be taken as evidence and sent to the Crime Lab to be test fired and function checked as soon as possible in order to return the weapon to the deputy. Do not leave the deputy(s) without a weapon.

### **3.124.50 Belt Recordings, Body Worn Cameras or Other Video Evidence**

If any of the deputies involved in an LFE had their belt recorders activated during the incident, the recorders shall be taken by homicide investigators and down loaded. Two copies of the recording will be made. One copy will be for Homicide Detail investigators to review before they begin their interviews of the involved deputy(s). The second copy will be supplied to the deputy so he, and if one is requested, his attorney may review the recording before the interview.

A copy of the recording shall be available in the interview if it is needed for clarification.

All deputy belt recordings will be maintained as evidence and at a minimum will be summarized and when necessary done in a verbatim.

The Department recognizes that video images captured on a deputy's body worn camera are two dimensional and may not always capture the exact point of view of the deputy due to various limiting factors of the camera and the deputy's movement. The video from the body worn camera is only one piece of evidence to be collected and used during an LFE incident.

Following an LFE incident, all Department policies and procedures shall be followed by all personnel. The body-worn camera and its stored video of the incident shall be treated like any other item of evidence for an LFE. The camera will not be removed from the deputy's person and the video will not be downloaded or watched until the Specialized Investigations Division, Homicide Detail supervisor arrives on scene and instructs a homicide detective to download the video. The camera will not be removed from the deputy's uniform until the deputy is photographed by the Crime Scene Specialist.

After the video is downloaded by a Homicide Detail investigator, two copies will be made. One copy will be for Homicide Detail investigators to review before they begin their interviews of the involved deputies. The second copy will be supplied to the deputy wearing the camera so he, and if one is requested, his attorney may review the video along with his belt recording, if there is a separate recording or another video of the deputy's general perspective, before the interview with the Homicide Detail investigators begins.

The interview with the deputy will occur as described in the Homicide Detail LFE process. The video, just as the deputy's belt recording or other video, will be available during the interview in case it becomes necessary for any clarification about the LFE incident as it pertains to the deputy's state of mind and perception of what was occurring during the LFE incident.


The copy of the video will be maintained as evidence.

### **3.125. SHERIFF'S DEPARTMENT LFE REVIEW CASE BOOKS**

After the LFE investigation is complete a case book of the investigation will be made by the homicide team conducting the investigation.

If the LFE investigation is done for an outside agency, the book will not be given to the agency until ALL the investigative reports are received including the crime lab and autopsy protocol, unless unusual circumstances arise. If an incomplete LFE book is requested or a specific portion of the report is requested by the agency, it must be cleared with the Division captain or lieutenant.

If the LFE investigation was done for SBSD personnel, the Homicide Detail will assemble two books containing the following items:

- 
- b. Briefing and notification reports.
  - c. Copies of all witness interviews
  - d. Copies of all witness deputy(s) interviews
  - e. Copy of the on-scene supervisors (watch commander) interview(s).
  - f. Copy of all interviews with the deputy(s) directly involved in the LFE. In most cases these interviews will be done in a verbatim.
  - g. Copy of the complete crime scene investigation. This includes photos (scene/officer/suspect/areal), Faro scan, Google Earth printouts and placard log.
  - h. Documentation of the deputy's weapon, ammunition and deputy's photo.
  - i. Photo and complete criminal history of the suspect(s).
  - j. If the suspect(s) is not deceased, a copy of their interview.
  - k. Homicide investigators autopsy report; or detailed description of the suspect's injuries.
  - l. Copies of any supplemental reports completed by involved personnel.
  - m. Summaries or verbatims of all belt recordings.
  - n. Summaries or verbatims of all 9-1-1 and/or dispatch recordings.
  - o. CD copies of all belt recordings and all body camera or other video footage.

When all the items listed above are complete they will be placed in a case book with a table of contents. The books will be marked with:

**Station Commander or Training Commander Copy-Do Not Duplicate**

**This book is to be returned to the Homicide Detail immediately following the LFE Review Board presentation.**

The completed books will then be given to the Division lieutenant and then captain for review. Once approved, the books will be given to the Special Operations Bureau Deputy Chief for review. In most LFE's the books should be completed in six to eight weeks. If it takes longer to complete the books, the homicide sergeant shall notify the Division lieutenant of the expected completion date.

Once the LFE books have been approved, the books will be distributed to the Training Commander and the concerned Division or Station Commander so they can complete their LFE review [REDACTED]

**Reminder-** The copy of the report that is given to the District Attorney's Office for their LFE review will be a complete copy and will not be given to them until **ALL** the reports are complete and in the case book.

After the LFE is reviewed by Training and the Station/Division Commanders, a date for the LFE Review Board will be set. The Homicide team that conducted the investigation will give a detailed presentation to the LFE Review Board. This presentation will be very professional and should be able to answer the Board's questions on whether the LFE was in or out of Department policy or if there are other issues with the LFE. The presentation should be prepared well in advance of the convening of the Board so the presentation can be reviewed by the Division captain, lieutenant and others in the Division. The team should be prepared to answer any questions the Board may have about the LFE.

After the LFE Review Board is complete and the Training and Station/Division Commanders have made their presentations, the LFE case agent shall collect the LFE books from both commanders and destroy them.

In the event that an Administrative Investigation is done on an LFE within our Department, the Internal Affairs Division will be given a COMPLETE copy of the criminal report.

[REDACTED]

[REDACTED]



**3.126. REQUIRED DOJ REPORTING**

Since an LFE involving a death (and any use of force incident resulting in death) is considered to be an “in-custody” or “arrest-related” death, the homicide sergeant shall, within 10-days of the incident, submit a completed copy of the DOJ Death In Custody Reporting Form (CJSC or BCIA 713 – rev. 9/03, or newer) as well as DOJ BJS Form CJ-11A (Arrest-Related Death Report) as required per Government Code 12525.

DOJ reports shall be forwarded to:  
Department of Justice  
Death in Custody  
P.O. Box 903427  
Sacramento, CA 94203-4270

The telephone number is presently: (916) 227-3549

Fax number: (916) 227-0427

As of January 1, 2016, all Lethal Force Encounters (LFE) where a suspect or peace officer is; killed, shot or suffered great bodily injury will be reported to the DOJ. Great bodily injury is defined as a substantial risk of death, unconsciousness, protracted and obvious disfigurement or protracted loss or impairment of the function of a body member or organ. All LFE's investigated by the Homicide Detail that fall under this guideline must be reported to DOJ on a yearly basis. The Homicide Detail will file the DOJ report within ten days of the LFE.

### **3.128. SPECIAL ASSIGNMENTS / INVESTIGATIONS**

Occasionally, the Homicide Detail receives an assignment or investigation from a Department Executive Staff member or Office of the Sheriff.

These assignments are sometimes outside the usual realm of our normal investigations, and are generally of a sensitive or confidential nature.

Any personnel assigned to one of these investigations shall conduct the case with the same confidence, completeness, and thoroughness as any homicide investigation.

The detail captain and lieutenant shall be continually updated so the appropriate Executive Staff personnel can be briefed as to the progress of the investigation.

Due to the sensitive nature of these investigations, the completed case files are typically not sent to Records (with the exception of a CR-1/CR-4 for statistical purposes.) Generally, the files are stored in the homicide file room. In the event of a special investigation where criminal charges are filed and officers/employees are arrested, the case file should not go to Records at least until after some significant time has passed and the criminal matter has been fully adjudicated.

A copy of the completed case may be sent to the Internal Affairs Division if requested.

### **3.130. EVIDENCE STORAGE ROOM**

The Homicide Detail, by the very nature of its investigative scope, collects a large amount of evidence. Many of these evidentiary items are collected by the Crime Lab and/or CSI/CSS personnel for processing, but the investigators themselves may still collect additional evidence.

When evidence related to an investigation is collected, it may be necessary to bring the items back to the Homicide Detail office for further inspection or examination by the investigators. This can create a storage problem and/or evidence chain issue.



The evidence/property storage procedure for personnel assigned to the Homicide Detail shall be as follows:

- A. Assign a bar code and attach to the property.
- B. Complete a CR-3 form.
- C. A photocopy of the completed CR-3 shall be given to the clerical staff so the item can be entered into the PETS computer. A photocopy will be returned to the investigator. The original CR-3 shall be placed in the case file and a photocopy will be routed to the Records Division. If the evidence is not immediately taken to the Property Division and will be temporarily stored in the detail evidence room with a photocopy of the completed CR-3 form attached to the property.
- D. After A, B, and C have been completed, the investigator should transport the evidence/property item(s) to the Property Division for storage. In some cases, the investigator may elect to temporarily store the item(s) in the detail evidence/property storage locker after completing steps A, B, and C. This policy **shall not** permit:
  1. Any untagged evidence and/or property to be stored in the detail evidence room without permission from a supervisor.
  2. Any item of evidence/property should not be left under a desk or table, or in any way unsecured or unattended by an investigator. These items shall be stored in a temporary locker in the Homicide Division or if away from the office, in a Sheriff's Department station temporary locker overnight until the evidence can be taken to Sheriff's Property Division. The evidence should be logged and documented following department policy.
  3. Any item of property and/or evidence kept in the detail's evidence/property room longer than five days must have the approval of the lieutenant. The property sergeant shall be responsible for the detail's evidence/property room and will advise any detail members when their evidence needs to be relocated to the Property Division.

All items of evidence/property stored in the evidence/property room must be logged in and out. There is a 3-Ring binder with logs that will be kept in the evidence room for proper logging of stored items. It is mandatory that this logbook is used for every item stored in the evidence/property room. Use this log to record when evidence/property is placed in the lockers by name/date and associated with a DR#, H#, C#, or T#. As referred to in Item #3 above, these items in temporary storage should not exceed five days without the approval of the lieutenant.

There are 18 lockers with keys in the locks. When placing evidence in the locker, secure the lock and remove the key. The key will remain in your possession until you remove the evidence/property. Upon removal of your evidence/property, the key shall be left in the locker for the next detective to use. Firearms shall not be placed in the lockers unless they are unloaded and made safe.

Perishable items shall not be placed in the lockers. There is a small refrigerator located in the room for that purpose. ***Perishable items shall be removed from the refrigerator the next business day and taken to the Sheriff's Property Division.***

The property sergeant, admin sergeant, and lieutenant will maintain a master key for the lockers. The property sergeant shall file and keep the entry logs for a period of three (3) years.

### **3.132. STANDARD EVIDENCE PACKAGING**

For all evidence packaging instructions and requirements, refer to evidence collecting, packaging and processing guidebook maintained by the property sergeant.

### **3.136. AUTOPSIES**

The autopsy examination is a vital part of any death investigation and is performed by a forensic pathologist and supervised by the Coroner Division.

An investigator will be assigned to monitor and observe the autopsy and will be responsible for supervising the photography and collection of evidence. The investigator assigned to monitor the autopsy shall be responsible for completing the necessary forms/paperwork requested by the Coroner Division pertaining to the release of information (type of injuries, weapon used, cause of death, etc.) relating to that case.

In general, it shall be the policy for members of the Homicide Detail **NOT** to release (or authorize the release of) autopsy information regarding specific injuries, weapons used, etc. to the media until such time that the release of the information will not hinder the investigation. The authorization for the release of such specific information will be the responsibility of the homicide team sergeant.

The investigator will know the names of all persons present at the autopsy. At the conclusion, they should contact their supervisor with the results.

The investigator's notes will be transcribed into a report to be included in the case file. This report should document the wounds to the victim, evidence collected, cause of death, etc. and should be done in layman's terms rather than trying to use unfamiliar medical terms. Occasionally a member of the Homicide Detail is required to attend an autopsy in another county (usually Riverside or Los Angeles). The procedures for attending an autopsy in

Riverside County are very similar to those in San Bernardino County. The procedures in Los Angeles County, however, are very different. If the need arises to attend an autopsy in Los Angeles County, do not take a forensic specialist along. The Los Angeles County Coroner's Office (L.A.) will not permit an outside forensic specialist to attend an autopsy they perform. The L.A. Coroner has their own forensic personnel who collect the evidence and take photographs at their autopsies.

The LA Coroner's Office will allow investigators to take notes and view the autopsy, but they will not provide us with any paperwork pertaining to the event without a court order. Their office will send us a complete autopsy "package" containing reports, photos, etc., only through a subpoena submitted by the San Bernardino County District Attorney's Office.

### **3.138. CORONER REVIEW BOARD**

In 2011, the Coroner Division developed a policy for a formal Coroner Review Board to be convened when there is a case with an undetermined or disputed cause/manner of death. Details of the policy are as follows:

***Whenever a Cause and/or Manner of death are found to be "Undetermined" by a Medical Examiner, the case must be brought to the attention of the Deputy Director. The Cause and/or Manner of death will be forwarded by the Medical Examiner to pathology transcription for typing. Upon completion of the report, the autopsy protocol will be forwarded to the clerical supervisor, who will submit the report to the Deputy Director for review. The Deputy Director will review the findings of the case with the Medical Examiner that performed the autopsy and determine if a Coroner Review Board should convene. The Coroner Review Board shall include the Deputy Director, Chief Medical Examiner, Deputy Medical Examiner on the case, Deputy Coroner Investigator, and representatives from other affected agencies. The purpose of the review is to ensure that the case is thoroughly and methodically reviewed and all the facts are presented.***

***Whenever a Cause and/or Manner of death are to be changed after the initial Medical Examiner ruling, it must first be submitted to the Deputy Director for review. The Deputy Director will then discuss the request for change concerning the Cause and/or Manner of death with the Medical Examiner and the Deputy Coroner Investigator involved with the investigation. These changes will then be brought before the Coroner Division Review Board for resolution.***

***These findings will then be submitted to the Coroner Division Commander for review. It will be only after the Coroner Division Commander's approval for change of Cause and/or Manner of death that an addendum to the Coroner Autopsy Protocol, Coroner Case Management System (CCMS) and amendment to the death certificate will be completed.***

If the Coroner Division convenes a Coroner's Review Board and requests the presence of a Homicide detective, the case agent and the case agent's sergeant will attend the Review Board meeting. The case agent should bring the case book to the meeting, as well as any photographs that may aid the Review Board in any decisions about the case. If the Review Board asks for a homicide detective to attend a meeting to discuss a case that has not been assigned to a homicide team, a member of the first or second call team will attend.

### **3.140. CASE AGENT RESPONSIBILITIES**

After the Homicide Detail has begun investigating a case, the homicide sergeant will appoint one of the investigators as the case agent.

The responsibility of the case agent is to gather all reports as they flow from the investigators and sergeant and organize them in the case file. This case file must be as current and complete as possible. The file should also be neat and orderly, so that specific information can be located quickly.

The case agent must also be knowledgeable of all facts and events concerning this investigation and must be able to manage and direct any further investigation into the case. The case agent is also responsible for preparing the case for court, including the preparation of all enlargements, charts, diagrams, follow-up investigation; as well as sitting with and assisting the prosecuting DDA during trial if needed. The case agent will be responsible to the team sergeant for tracking any additional investigation on open cases that need to be completed and will be responsible for briefing superiors and/or peers on the status of the case.

The case agent will maintain a property disposition file. This file will contain the following:

1. A photocopy of the case face sheet (CR-1).
2. A photocopy of the case disposition sheet (CR-4).
3. A photocopy of the CHP 180 (if applicable).

Upon transfer or promotion, the case agent will ensure that all non-closed cases assigned to them are organized neatly in the case file and ready to be assumed by a new incoming investigator.

### **3.142. VEHICLE PROCESSING / RELEASE**

Whenever a vehicle is processed for evidence at SID, a copy of the CHP 180 will be maintained in the property file. The case agent will note on the copy of the CHP 180 to whom the vehicle may be released (if known.) After processing, the sergeant and case agent will determine whether the vehicle can or should be released. No vehicles shall be released without authorization from the team sergeant.

Whenever possible, after a vehicle is thoroughly processed for evidence and photographed, it should be released. If the vehicle belonged to a murder victim, every effort should be made to release it to the appropriate legal next-of-kin. In the event of a situation where there are no known legal next-of-kin or there is a familial dispute or an inability of next-of-kin to take possession of the vehicle, the disposition of the vehicle shall be handled through the County Public Administrator. In this situation, the Deputy Coroner handling the case should be contacted and made aware that the vehicle is ready to be released. They can then make the determination to handle it through their office or turn it over to the Public Administrator.

In cases where the legal owner is unknown, every effort should be made to identify and notify the true legal owner of the intended release in accordance with Department policy and procedure, prior to releasing a vehicle to a tow company for subsequent lien sale.

Vehicles involved in an LFE should only be released after Civil Liabilities has been notified and given their authorization.

There may be some extenuating circumstances to keep a vehicle for evidence, but that should be evaluated on a case- by- case basis, and a decision made by the team sergeant. Generally, however, few (if any) vehicles should be kept indefinitely.

In the event a vehicle is kept as evidence and the decision to release it or not comes into question, it may be advisable to contact the DA's office and defendant's attorney(ies) to advise them of our intent to release the vehicle. Notice to defense counsel should be in writing via certified mail. A date of release should be given to allow ample opportunity for the defense to obtain any court orders for evidence processing or to have their experts view the vehicle prior to its release. If the vehicle is kept as evidence for an extended period of time (over a year), it is recommended that it should be re-photographed (inside and out) to depict its condition at the time it is released.

The case agent (or the homicide team sergeant) should be the only person(s) authorizing the release of vehicles for a particular case. The case agent will ensure that a CR-4 has been completed and a copy placed in the case file.

### **3.144. PROPERTY RELEASE / DISPOSITION OF EVIDENCE**

Evidence seized on self-defense, suicide, or cases deemed non-criminal by the District Attorney's Office, may be returned to the rightful owner immediately upon that determination being made.

Evidence seized in an LFE will be forwarded to the Civil Liabilities Division, and a note will be made in the case file that this disposition has been made on the property. All evidence seized in Lethal Force Encounter investigations for outside agencies will be turned over to the involved agency after the completion of the criminal court case (if any.) However, the

Sheriff's Civil Liabilities Division should be notified prior to the property being turned over to the outside agency.

If a suspect has pled guilty following a plea bargain, the case agent may release the property to the rightful owner 90 days after the sentencing of the suspect. In order to do this, he must contact the Superior Court Clerk's Office asking if a Request for Certificate of Probable Cause, a Notice of Appeal, or a Writ of Habeas Corpus has been filed. If not, the evidence may be disposed of. The case agent may also contact the District Attorney's Office Appellate Unit Clerk (909-891-3302) or utilize the court computer to obtain the status of the case (but it should be noted that many times the computer has not been updated and there may be a delay in the information being placed on the record.) In order to be on the safe side, it is suggested that the case agent call the Superior Court Clerk's Office and/or the D.A.'s Office Appellate Unit Clerk directly.

**IMPORTANT NOTE:** Prior to releasing any property on a case where the suspect pleads, the case agent MUST review the facts of the case and make certain there are no additional suspects whose charges have not yet been adjudicated in some manner. If there are such additional suspects, the property should not be released.

In cases where there are multiple defendants, and some agree to a plea bargain and others go to a jury trial, it is a good rule of thumb to hold all evidence for at least one year after all defendants have been adjudicated.

Generally, a defendant has 60 days after conviction to file a Notice of Appeal. This is usually the first step in a lengthy, time-consuming process, which is based largely on the issues raised by the defendant, and those agreed upon by the Appeals Court.

In any case, the last bastion a defendant has to delay or overturn their conviction is a Writ of Habeas Corpus, which can hold a case in limbo for years.

In each and every case, great care should be exercised to research and determine if any appeals are pending prior to releasing or authorizing the destruction of any property or evidence in a case.

The case agent (or the homicide team sergeant) should be the only person(s) authorizing the release of evidence or property for a particular case. The case agent will ensure that a CR-4 has been completed and a copy placed in the file for disposition of the evidence.

### **3.146. DNA EVIDENCE RETENTION PER P.C. 1417.9**

In recent years, legislation has been enacted which mandates law enforcement agencies to retain all biological material taken in connection with a criminal case for as long as the defendant remains incarcerated in connection with that case for possible DNA testing related to an appeal of that case. With that in mind, all such evidence taken in connection

with any homicide case or other appropriate case conducted by members of this division shall be retained indefinitely. Procedures do exist for obtaining judicial authority to destroy this type of evidence (refer to PC 1417.9 for those requirements and procedures.) All applicable evidence shall be handled in accordance with the specific requirements of this code section.

### **3.148. VEHICLE FORFEITURE PER P.C. 246.1**

Penal Code Section 246.1 allows law enforcement to sell, destroy or donate any vehicle(s) used in the commission of specific crimes; including first and second-degree murder, manslaughter, attempted murder and other crimes of violence. In order to comply with this law, prosecutors must, upon conviction, obtain an order from the court to dispose of said vehicle(s.) Whenever a homicide case falls within the parameters of this section, the investigator should make every effort to ensure the prosecuting attorney is aware of the section and complies with the law as stated. Refer to PC 246.1 for the specific requirements and procedures.

### **3.150. RELEASE OF LFE / HOMICIDE / DEATH INVESTIGATION REPORTS/CAC**

#### **3.150.10 To Civilian Personnel**

Occasionally, investigators receive requests by family members of victims or suspects to release crime reports on investigations conducted by the Homicide Detail. In all situations where the investigation is open, no complete report or part thereof, shall be released for any reason. In situations where the suspect(s) have been arrested and the case has been adjudicated in a court of law, no report shall be released without the approval of the Division lieutenant and the Civil Liabilities Division.

All requests for crime reports that come through the Records Division will be forwarded to the homicide team involved in the investigation. The team sergeant should then decide whether the report can be released or not. The sergeant should then contact Civil Liabilities (in some cases the Records Division will also contact Civil Liabilities) for their approval before passing the request on to the Division commander.

Senate Bill 1421 was enacted in 2018, and governs the release of certain reports. Any requests for the release of in-custody death, homicide or lethal force encounter reports **SHALL** be routed through county counsel prior to release.

Once the approval has been made, the team sergeant should ensure that certain key elements (i.e.; witnesses' names, addresses, property inventory and evidence reports, etc.) are redacted from the report before the copy is released. The information will be redacted by blacking out the items with a felt marking pen, then re-copying each page.

### **3.150.20 To Attorneys/Insurance Companies/Victim-Witness Programs**

Division commander and the Civil Liabilities Division must approve all requests for crime reports by attorneys (other than prosecuting attorneys) and insurance companies.

Requests by Victim-Witness Assistance Programs are fairly routine. When a member of the detail receives a request for a crime report, they should contact the person making the request and ask for an in-lieu-of crime report form. This is a one-page document that is filled out by the case agent for the team conducting the investigation and returned to the victim-witness liaison representative (which will satisfy their request.)

### **3.150.30 To Law Enforcement Personnel**

When requests for reports are made by law enforcement personnel, equal care must be taken into consideration as to why the request is being made, and whether the case is open or not. Although we would like to share information without reservation, we must keep in mind the security of the facts of the case (if any.) If an agency has a request for specific information, a member of the Homicide Detail giving it out verbally to the requesting officer may satisfy the request. In any case, the homicide team sergeant receiving the request should be cognizant of the pitfalls of releasing a document without good cause before approving the request.

In each officer-involved shooting investigation the detail conducts for outside agencies, a complete copy of the report will be prepared and given to the involved agency. Before the report is turned over, the face sheet shall be stamped with a warning that reads: **WARNING!! Dissemination of this document and information therein is restricted. Do not copy or reproduce without specific approval from the Sheriff's Department.** There is also an information block on the stamp which must be filled out, which reflects the name of the person the document was released to, the date it was released and who authorized the release. A copy of the stamp and the completed information block shall be made and placed in the original case file.

There are five such stamps in the detail, one is kept in the lieutenant's office and each homicide sergeant has one. They are available to all members of the detail. It should also be used any time a sensitive document is released to anyone outside the Specialized Investigations Division.

### **3.152. JUVENILE ARRESTS**

Investigators from the Homicide/CAC Detail occasionally arrest juvenile offenders. To ensure proper identification and maintain important evidence, juveniles should be processed in the following manner prior to being housed at Juvenile Hall.



All juvenile homicide suspects should be fingerprinted, palm printed and mug photographed prior to booking or release to parents. Processing of juveniles arrested for other crimes will be at the discretion of the arresting deputy/investigator; however, future evidentiary value should be considered during the investigation.

Fingerprints, palm prints, and the mug photos can be done at any Sheriff's booking facility or at Central Records Division. It is important to remember: the information required by Live Scan must be completely filled out by the officer taking the prints as well as the person being fingerprinted. The Live Scan will be routed to and maintained by Scientific Investigations Division. The photos will be maintained by the case agent and/or by Cal Photo/DIMS.

### **3.154. SECURE DETENTION OF JUVENILES**

Prior to making an arrest of a juvenile offender; it may be necessary to detain juveniles waiting for an interview or prior to transporting them to juvenile hall. If a juvenile is detained in a room or holding cell, there are mandated guidelines, which must be strictly adhered to. The secure detention conditions include; the juvenile must be 14 years of age or older, juvenile is detained under W&I Section 602, the detaining officer has reason to believe that the juvenile presents a serious security risk of harm to self or others, and the detention is for the purpose of investigating a case, facilitating release to a parent or guardian, or arranging transfer to an approved juvenile detention facility. In any case, a juvenile shall not be detained in a law enforcement facility for a period exceeding six hours.

These guidelines make it mandatory that a detention log is maintained for every juvenile that is detained in a law enforcement facility. The information which **MUST** be completed on the detention log includes; the juvenile offender's name, sex and age, the name of the detaining officer, the name of the supervisor approving the detention, the reason for the detention, date and time juvenile was brought into the facility, initials of employee making 30 minute observations on the juvenile, date and time when juvenile was released, type of release, who/where juvenile was released to, and total time in the facility. It shall be the responsibility of each homicide team sergeant to ensure that a log entry is made in every case where a juvenile(s) is detained during an investigation. The Crimes Against Children sergeant will be responsible for maintaining the juvenile detention logbook.

### **3.156. TEMPORARY HOLDING/WAITING ROOMS**

There are two temporary holding/waiting rooms located within the Specialized Investigations Division. Every sworn member of the division will be assigned a key to these rooms. The rooms are designed for temporary holding of detained or arrested persons only (including juveniles) waiting to be interviewed or transported to a detention facility. No person should be placed in these rooms without first being searched and all personal property (including jewelry, money, shoes, belts and other small items) removed, inventoried, and secured in

an appropriate container (bag, envelope, etc.) The officer overseeing the property removal/inventory shall also be responsible for safely securing the property until the person is transported.

All persons placed in these rooms shall be visually checked on no less than once every 30 minutes and provided access to water and restroom facilities. Juveniles placed in these rooms shall be monitored according to the mandated guidelines previously mentioned (See: SECURE DETENTION OF JUVENILES.) Whenever possible, the rooms should be occupied by only one person at a time, and adults and juveniles shall never be placed together in the same room.

### **3.158. LIVE LINE-UPS**

To arrange an in-custody line-up at one of the detention centers, the investigator must contact the facility at least 24 hours in advance in order that they may be prepared. The name and booking number will be required so that look-alikes can be found and readied for the line-up.

It is the policy of the San Bernardino County District Attorney's Office that the San Bernardino County Public Defender's Office be notified of the line-up 24 hours before, so that a defense representative can be present.

The Homicide Detail shall adhere to this policy also, and will, at least 24 hours before the line-up, contact:

- District Attorney's Office.
- Public Defender's Office, and/or
- Defendant's private attorney (if known)
- Scientific Investigations Division (for photography.)

These agencies shall be informed of the time, place, and other pertinent information regarding the line-up. If any of these first three agencies fail to attend the line-up, note the absence and proceed with the line-up as scheduled.

### **3.160. FOLLOW-UP INVESTIGATIONS**

Due to the nature of homicide/CAC cases, a large amount of follow-up investigation is required to prepare a case for the district attorney and/or trial. Some of this follow-up requires the investigators to travel to other states, and in some cases, other countries to complete the casework.

When an investigator is conducting follow-up casework, they shall contact and update their supervisor every time the investigation changes direction.

When conducting an overnight out-of-town follow-up, the investigators shall make telephone contact with their supervisor at least twice a day (morning and afternoon) to provide updates. This communication between investigators and supervisors is important as sometimes information is gained here and must be communicated to the out-of-town personnel to assist them.

No out-of-county follow-up is permitted without a supervisor's knowledge, and no distance and/or overnight travel will be authorized without a supervisor's consent.

While conducting follow-up investigations out of the area, Homicide Detail personnel will always conduct themselves in a proper and professional manner.

### **3.162. HOMICIDE PROSECUTION IN THE REPUBLIC OF MEXICO**

Article IV of the federal penal code of the Republic of Mexico, allows law enforcement in the United States to prosecute homicide suspects who have fled to Mexico. Basically, Article IV states, "If a homicide suspect and/or victim is a Mexican citizen and the suspect flees to Mexico to avoid prosecution, and has not been tried in a California court, he or she may be prosecuted in Mexico."

Article IV allows California law enforcement agencies to file a PC 187 complaint with Mexican federal prosecutors in the Mexican state where the suspect is believed to be hiding. California Department of Justice (DOJ) - Mexican Liaison in San Diego Agents Guillermo Auyon or Peter Shear can assist upon request by agency heads.

Department of Justice, Bureau of Investigation  
555 W. Beech Street. Suite 300  
San Diego, CA 92101  
(858) 268-5417

Additional assistance can be obtained by contacting the Sheriff's Department Public Affairs Division, LAPD Foreign Prosecution, Interpol Liaison Unit, Detective Support Division (see attached phone number list).

### **3.164. ARTICLE IV PROSECUTION OVERVIEW**

A U.S. law enforcement agency received a report of a serious violent crime. Investigating officers determined from witnesses that the suspect, a Mexican national, returned to his homeland to avoid arrest. The investigators subsequently uncover a Mexican address for the fugitive. Now, they want to bring him to justice. What course of action should be taken?

Traditionally, law enforcement authorities seek to extradite Mexican national fugitives who flee the United States to evade justice and take refuge in Mexico. While extradition represents a viable option and the clear preference for most jurisdictions, U.S. law enforcement officials, particularly when seeking justice in exceptional cases, should

consider exploring another legal process called domestic prosecution, foreign prosecution, or, simply, Article IV.

### **Defining Article IV**

Article IV refers to the law under the Mexican Federal Penal Code that permits Mexican federal authorities to prosecute Mexican nationals who commit crimes in foreign countries or to prosecute other nationals who commit crimes against Mexican citizens outside of Mexico. Usually, law enforcement officials in the United States (e.g., state and local county prosecutors) seek recourse under the mechanism of Article IV of the Mexican Federal Penal Code because Mexico's domestic law on international extradition prohibits Mexican authorities from extraditing its citizens in all but the most exceptional circumstances. The extradition treaty between the United States and Mexico expressly provides that extradition of nationals is a matter of discretion. In 2000, for instance, the government of Mexico extradited a Mexican national for the murder of a U.S. Border Patrol agent.

Because many U.S. prosecutors' requests for extradition often fail to meet this exceptional circumstance threshold, officials may choose to forego prosecution in their jurisdiction and surrender their right to prosecute to Mexican federal authorities. In effect, prosecutors in the United States request that Mexican federal prosecutors seek justice on their behalf generally for egregious and violent crimes, such as murder, child molestation, forcible rape, kidnapping, robbery, and aggravated assault. Article IV is similar to an extradition in that the fugitive must be found in Mexico. Unlike extradition, however, defendants (Mexican nationals) are prosecuted in Mexico and, if convicted, serve their sentences there.

### **Using Article IV**

To use Article IV, U.S. law enforcement officials, first and foremost, must prove that either the suspect or victim is a Mexican national. Without this proof, Mexico lacks jurisdiction to prosecute. During the investigative stage of the crime, officers can obtain information from witnesses or documentation of the suspect's or victim's Mexican nationality. Other times, investigators might rely on the suspect or victim's U.S. Immigration and Naturalization paperwork (green card), personal letters, or similar documents to prove Mexican nationality. Mexican prosecutors even have accepted statements from family members, friends, and acquaintances as proof that the suspect or victim is a Mexican national.

Dual nationality does not affect the application of Article IV. Historically, Mexico recognizes and treats first-generation U.S. nationals as Mexican nationals for purposes of extradition and Article IV prosecution. Mexican officials emphasize that their government does not intend to provide a safe haven for violent fugitives and will not allow Mexican nationals to flee with impunity from the criminal prosecution of any country's jurisdiction.

When Mexico has Article IV jurisdiction, the case must meet three conditions and requirements before Mexican federal prosecutors can initiate and begin an Article IV prosecution. First, U.S. law enforcement agencies requesting Article IV prosecution must provide the fugitive's address in Mexico. Generally, the majority of the fugitives who flee from U.S. prosecution return to their hometown. Addresses in Mexico are very different from those in the United States, particularly in rural areas. Often, rural addresses are listed as ranchitos (ranches) or elidos (communal properties) or designated by the kilometer of that area of the state. The residences in these locations do not have specific home addresses. In the urban areas of Mexico, addresses are listed by colonias (colony or settlement) and fraccionamientos (a particular section or neighborhood). The colonia and fraccionamiento generally will have a specific home address. Providing ample and specific locations or addresses in the rural and urban areas of Mexico assists Mexican law enforcement authorities in the apprehension of the fugitives. Even telephone numbers can assist Mexican authorities in locating fugitives.

Second, U.S. prosecutors must confirm that the fugitive has not been "definitively judged" in the U.S. jurisdiction for the criminal act that the fugitive committed. U.S. prosecutors must submit a letter with the completed Article IV package stating that the fugitive has not been "tried and convicted" with no appellate recourse or "tried and acquitted." Under the Mexican Constitution and Mexican Federal Penal Law, accused suspects cannot be tried twice for the same crime, prescribing the principle of double jeopardy.

However, fugitives who flee to Mexico while on bail or are free on recognizance, pending sentencing and awaiting appellate resolution, can be prosecuted under Article IV. According to Mexican authorities, a fugitive located in Mexico can be prosecuted under Article IV for any outstanding judicial procedural or appellate issue outside of Mexico.

Finally, the offense or offenses for which U.S. law enforcement officials seek prosecution in Mexico must exist as a crime in both countries. Mexican law may not recognize some U.S. crimes because of social and cultural differences. For example, parental child abduction offenses are penalized throughout the United States, but not generally, at least not yet, in Mexico. How Mexico prosecutes juveniles who are accused of committing serious and violent crimes represents another difference between the United States and Mexico that arises from time to time. In the United States, juveniles who commit serious and violent crimes can be tried as adults at the federal level, if not in all states. Under Mexican penal law, juveniles cannot be tried as adults. In general, however, most violent crimes committed by adults fall under the dual criminality requirements of Article IV.

## **Creating Liaison**

In the early 1970s, filing Article IV cases with the Mexican Federal Attorney General's Office (PGR) constituted a new frontier for California law enforcement, and specific guidelines did not exist. The number of violent crimes being committed by Mexican nationals was

proliferating significantly throughout the state, and many fugitives wanted in the United States sought safe haven or refuge in their hometowns in the Republic of Mexico. Concerned with this developing trend, in 1975, the California Department of Justice established a Mexican Liaison Unit (MLU), staffed by one bilingual agent, within the California Bureau of Investigation to assist California law enforcement agencies in addressing Article IV cases and other liaison requests.

Next, the California attorney general asked the MLU agent to explore alternative solutions with Mexico's federal prosecutors. Meeting in Tijuana in the Mexican state of Baja California, Mexican federal prosecutors and the MLU agent soon focused on Article IV of the Mexican Federal Penal Code to address the arrest and prosecution of Mexican nationals in Mexico accused of committing violent crimes in California.

In that same year, the California attorney general authorized the MLU agent to travel to the Republic of Mexico and file Article IV criminal complaints for California police departments, sheriffs' offices, and district attorneys. From 1975 to 1987, the agent handled, on average, three Article IV filings a year. Renamed the Foreign Prosecution Unit (FPU) in 1991, the program's mission remained the same: to assist California law enforcement officials with identifying, developing, preparing, and presenting Article IV cases in Mexico. FPU has grown to include two special agent supervisors, two special agents, and a full-time professional translator at the California Bureau of Investigation's San Diego regional office. The FPU averages about 15 Article IV filings each year. Because of their success in achieving numerous Article IV filings in Mexico, the FPU now receives requests for Article IV assistance from law enforcement agencies outside of California.

### **Assisting Local Agencies**

When FPU receives an Article IV request from a local, county, or state law enforcement agency for an evaluation of a case, an FPU agent reviews the facts and circumstances of the particular case to determine if it satisfies the legal requirements to file the complaint in Mexico. To arrive at a decision, the FPU agent will confirm with the requesting jurisdiction's investigator the nationality of the fugitive, whether an address has been established in the Republic of Mexico, if the crime has dual criminality in both countries, and the prosecutor's interest in surrendering jurisdiction. Many law enforcement officials favor extradition as it is a matter of policy that a defendant should be tried in the jurisdiction where the crime occurred.

After discussing the underlying facts of a case with an FPU agent, law enforcement officials may believe that the case will not reach the exceptional circumstances threshold of an extradition required under Mexican law. After law enforcement officials concur with the filing of an Article IV complaint, rather than extradition, FPU agents explain the costs to file the case. These include travel expenses and other ancillary costs that the U.S. agency must pay to file the case with Mexico's Federal Attorney General's Office in Mexico City or at Mexican state delegation offices in other areas of the country.

## **Preparing the Article IV Package**

Once a jurisdiction has decided to seek prosecution of a fugitive under Article IV, the law enforcement agency must assemble an Article IV package. For a homicide case, the package includes the crime report describing the officers arriving at the scene and the description of the crime scene; follow-up or continuation reports describing witnesses' statements; scientific reports; medical and coroner reports; laboratory results; certified copies of the death certificate, the charging document or criminal complaint, and the arrest warrant; and copies of the state penal code sections describing the violation and the definition of a peace officer for that state. In addition, the package also must include crime scene and autopsy photographs and, if available, a photograph of the fugitive with an address or specific location of the fugitive in Mexico. Finally, a letter from the prosecutor, such as a district attorney, must confirm that the defendant has not been "definitively judged" for the offenses in that jurisdiction.

Next, the agency must have the Article IV package translated into Spanish. The FPU has a full-time professional translator on staff who provides translation services to all California law enforcement agencies at no cost. With out-of-state agencies, FPU can recommend an experienced private translator whose services will cost a nominal fee. Once the Article IV package is translated and assembled, FPU agents will arrange to file the Article IV with the PGR Office of International Legal Affairs in Mexico City.

Pursuant to Mexico's guidelines for authorizing the filings of Article IV complaints, authorities can file complaints;

- 1) At the Mexican embassy in Washington, D.C.,
- 2) Before a Mexican consul general at a Mexican consulate in the United States,
- 3) Before a PGR legal attaché in the United States,
- 4) At the Office of International Affairs in the Mexican Attorney General's Office in Mexico City, or
- 5) At a state PGR delegation office in the Republic of Mexico. Because of an agreement with the Office of International Affairs in the Mexican Attorney General's Office in Mexico City, FPU files all Article IV complaints from California in Mexico City.

## **Filing the Article IV Complaint**

Just like a criminal complaint is filed and commences the criminal process in the United States, the filing of an Article IV package before a Mexican federal prosecutor of the Office of International Affairs in the Mexican Attorney General's Office in Mexico City initiates the criminal process in Mexico. According to Mexico's law, a representative from the U.S. jurisdiction filing the complaint must appear personally and sign the document or denuncia to initiate a formal complaint. When a law enforcement official appears before the Mexican

prosecutor, the sole mission of that person is to process the Article IV package. The prosecutor reviews the package for legal sufficiency and, if satisfied, forwards the complaint to a judge for issuance of an arrest warrant. Generally, the prosecutor sends the complaint to the judge in the jurisdiction where the defendant resides. Once the arrest warrant is issued, the prosecutor will forward the warrant of arrest to the Mexican Federal Judicial Police in the same jurisdiction for service.

Because of the close working relationship that FPU enjoys with Mexico's Office of International Affairs, Mexican federal prosecutors keep FPU agents informed of each step during the process and convey the status of the case from the issuance of the arrest warrant to apprehension of the fugitive and, finally, the conviction and sentencing. However, Mexican prosecutors cannot predict how long the prosecution of an Article IV will take, inasmuch as each prosecution depends, among other things, on the underlying facts of the case. The trial generally will occur before a single judge, and no live testimony is taken. Jury trials rarely occur, if ever, in an Article IV prosecution. A convicted defendant can appeal a judge's finding at any stage. Most Article IV prosecutions, however, do result in conviction, according to the results that FPU has received. When the defendant is convicted, the Mexican judge will sentence the defendant according to Mexican penal law, and the defendant serves the sentence in Mexico. The FPU has received Article IV homicide sentences ranging from 15 to 50 years in the Mexican penal system.

## **Conclusion**

For many U.S. law enforcement officials, extradition stands as the traditional and preferred method to seek justice when a wanted suspect flees their jurisdiction after committing a serious or violent crime. In cases where a Mexican National returns to Mexico, U.S. law enforcement officers may seek justice through Article IV of the Mexican Federal Penal Code. The California Department of Justice, California Bureau of Investigation, Foreign Prosecution Unit can assist U.S. law enforcement agencies to initiate, prepare, and file Article IV criminal complaints against Mexican citizens who commit violent crimes in the United States. Article IV constitutes another tool for the criminal justice community to employ in its fight against criminals who prey on Americans and then seek refuge from justice in their home country.

## **Endnotes**

1) To obtain information about other countries that have similar laws, with varying guidelines and criteria, contact the U.S. Department of Justice, Office of International Affairs in Washington, D.C. at (202) 514-0000 or at the agency's website: <http://www.usdoj.gov/criminal/oia.html>

2) Agencies can contact the California Department of Justice, California Bureau of Investigations, Foreign Prosecution Unit at (858) 268-5400.



3) If agencies need extradition information, they should contact the U.S. Department of Justice, Office of International Affairs (OIA) in Washington, D.C., at (202) 514-0000. OIA trial attorneys can answer questions about extradition issues, as well as provide information on international law and foreign prosecution.

### **3.166. AMBER ALERT/HIGH-RISK ABDUCTION RESPONSE**

The Specialized Investigations Division is responsible for a large part of any “Amber Alert” or High-Risk abduction. The Department’s “High-Risk Abduction Response Plan” (attached) should be a general guide for all aspects of an Amber Alert/High-Risk abduction investigation. All Amber Alerts or high-risk abductions shall be investigated in the same manner as a homicide investigation. In order to standardize the specific response plan for personnel from this division, the following guidelines should be adhered to.

Upon receiving notification that an Amber Alert has been AUTHORIZED:

- I. The first-call homicide team is responsible for assuming and conducting the investigation regarding the abduction. The first-call team will handle the investigation at the crime scene or the scene of the abduction. The case shall be handled as a homicide investigation and all investigative measures will be employed as needed or appropriate. The first-call team sergeant will be responsible for:
  - a) Assuming overall responsibility for the investigation.
  - b) Supervising the crime scene investigation.
  - c) Obtaining and organizing all previously conducted investigative measures by the involved station personnel.
  - d) Ensuring that all appropriate investigative measures are in place and resources are coordinated.
  - e) Ensuring all family members and witnesses have been interviewed/polygraphed if necessary.
  - f) Ensuring trap/trace or recording/monitoring capabilities on family member's phones are in place as necessary.
  - g) Ensuring neighborhood canvasses and searches are coordinated/carried out.
  - h) Coordinating with Public Affairs and station PIO the release of info to the news media.
- II. The first-call homicide team sergeant shall have at his disposal and direction all reasonable and necessary resources from:
  - a) The entire Specialized Investigations Division (including SID Reserves.)
  - b) Personnel from the affected station or division where the Amber Alert originated.
  - c) CSI - Crime scene investigation, Cal-ID, Crime Lab, etc.

- d) Aviation - Area searches, out of area transportation.
  - e) Volunteer forces - Area searches, additional manpower.
  - f) Sheriff's Intelligence - Utility, credit and background information research.
  - g) SED/Crime Impact Teams - Manhunts & surveillance.
  - h) Crime Analysis - Information & wanted posters, fliers, Internet, mapping.
  - i) Tech Services - Assist data collection & storage.
  - j) IRNET - Surveillance, wire interceptions & vehicle tracking.
  - k) Public Affairs - Media relations and information dissemination.
- III. Upon activation of an Amber Alert, the third and fourth-call homicide teams will be notified by the detail commander and immediately assume first and second-call homicide call-out responsibilities.
- IV. After receiving notification of an alert, the first-call team sergeant shall immediately notify the on-call CAC sergeant who will then assume responsibility for activating and staffing the SID Amber Alert tip lines: 866-346-7632
- a) Depending on staffing needs assessment, as many as six detectives (CAC/or SID Reserves) or other qualified personnel from various locations within the Department shall be assigned to man the incoming Amber Alert tip lines located in the Intelligence Division/Fusion Center DOC.
  - b) Staffing may be increased or eliminated based on need or workload.
  - c) The information received shall be entered into the computer database.
  - d) The CAC sergeant or acting sergeant shall ensure that as leads are input into the computer database, regular queries for suspect leads/matches using the PenLink PC 290, Megan's Law, or other appropriate database searches are conducted.
  - e) The CAC sergeant shall ensure that critical information is passed on to the homicide sergeant in charge of the investigation.
  - f) The CAC and second-call homicide team sergeant shall routinely review, evaluate and prioritize all incoming tip data.
- V. The second-call homicide team shall be available and may be utilized for additional investigative field assignments. The second-call team sergeant will be responsible for activating and staffing the division command center within the Intel Detail DOC/Fusion Center as well as assisting and coordinating with the first call team sergeant in the supervision of all field (non-crime-scene) related aspects of the investigation.

These duties may include:

- a) Coordinating with the crime-analysis unit, TSD, Intelligence Division as needed to activate all necessary phones and computers, etc., for command center operations.
- b) Assigning and coordinating the supervision of detectives conducting in-field follow up interviews and other activities.

- c) Coordinating local, regional and national database searches for similar cases or information sharing.
  - d) Ensuring liaison with local FBI, Parole and probation officials.
  - e) If necessary, coordinate development of offender profile through the FBI Behavioral Sciences Unit.
  - f) Coordinating with Crime Analysis Unit, Intel, SED, CAC and the first-call sergeant to ensure priority assignments are distributed and handled appropriately.
  - g) Ensuring the names of local PC 290 and sex offenders are provided by CAC personnel and that priority assignments are made to contact these individuals as needed during the investigation.
- VI. In the event that a suspect can be linked to a hard line or cellular phone, the second-call homicide team sergeant shall assume the responsibility of:
- a) Obtaining "wiretap" authorization on the suspected phone(s).
  - b) Coordinating with IRNET for immediate installation of monitoring posts.
  - c) Coordinating with CAC sergeant. or personnel in Amber Alert/Wire Room to maximize staffing capabilities for the tip line and wire monitoring.
  - d) Arranging and scheduling PC 629 certified monitors.
  - e) Coordinating all pertinent incoming wire information with the first-call homicide team sergeant.
- VII. The command center and tip line should be maintained and operational as long as necessary to fulfill the needs of the investigation. Tip information entered into the Amber Alert database by the persons staffing the tip lines in the "Amber Room/DOC" and all leads and case management activity throughout the entire investigation will be entered (real time) into the LEO database by a crime analysis staff member or other qualified person assigned to that portion of the investigation. These data entries will be maintained and utilized to track the course of the investigation. At the conclusion of the investigation, the database information should be downloaded/copied onto a CD-ROM or DVD and maintained as a permanent part of the case file records.