

## **Chapter 8 - Support Services**

# Communication Operations

## 800.1 PURPOSE AND SCOPE

The basic function of the communications system is to satisfy the immediate information needs of the law enforcement agency in the course of its normal daily activities and during emergencies. The latter situation places the greatest demands upon the communications system and tests the capability of the system to fulfill its functions. Measures and standards of performance are necessary to assess the effectiveness with which any department, large or small, uses available information technology in fulfillment of its missions.

Refer to DOM Chapter 14 for more information on public safety telecommunications.

### 800.1.1 FCC COMPLIANCE

California Department of Parks and Recreation radio operations shall be conducted in accordance with Federal Communications Commission (FCC) procedures and guidelines.

## 800.2 COMMUNICATION OPERATIONS

This department provides 24-hour telephone service to the public for information or assistance that may be needed in emergencies. The ability of citizens to telephone quickly and easily for emergency service is critical. This department provides access to the 911 system for a single emergency telephone number. This department has two-way radio capability providing continuous communication between the Communications Center and officers.

### 800.2.1 COMMUNICATIONS LOG

It shall be the responsibility of the Communications Center to record all relevant information on calls for criminal and non-criminal service or self-initiated activity. Employees shall attempt to elicit as much information as possible to enhance the safety of the officer and assist in anticipating conditions to be encountered at the scene. Desirable information would include, at a minimum, the following:

- Control number
- Date and time of request
- Name and address of complainant, if possible
- Type of incident reported
- Location of incident reported
- Identification of officer(s) assigned as primary and backup
- Time of dispatch
- Time of the officer's arrival
- Time of officer's return to service
- Disposition or status of reported incident

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### **800.3 RADIO COMMUNICATIONS**

Operations are more efficient and officer safety is enhanced when dispatchers, supervisors, and fellow officers know the status of officers, their locations and the nature of cases.

#### **800.3.1 OFFICER IDENTIFICATION**

Identification systems are based on factors such as beat assignment and officer identification numbers. Employees should use the entire call sign when initiating communication with the dispatcher. The use of the call sign allows for a brief pause so that the dispatcher can acknowledge the appropriate unit. Employees initiating communication with other agencies shall use their entire call sign. This requirement does not apply to continuing conversation between the mobile unit and dispatcher once the mobile unit has been properly identified.

## Property and Evidence

### 802.1 PURPOSE AND SCOPE

This policy provides for the proper collection, storage, and security of evidence and other property. Additionally, this policy provides for the protection of the chain of evidence and identifies those persons authorized to remove and/or destroy property.

### 802.2 DEFINITIONS

**Property** - Includes all items of evidence, items taken for safekeeping and found property.

**Evidence** - Includes items taken or recovered in the course of an investigation that may be used in the prosecution of a case. This includes photographs and latent fingerprints.

**Safekeeping** - The Department's Process for preserving and keeping the following types of property:

- Property obtained by the Department for safekeeping such as a firearm
- Personal property of an arrestee not taken as evidence
- Property taken for safekeeping under authority of a law (e.g., Civil Code § 2080.10; Welfare and Institutions Code § 5150 (mentally ill persons))

**Found property** - Includes property found by an employee or citizen that has no apparent evidentiary value and where the owner cannot be readily identified or contacted. When Found Property is collected for safekeeping a notice shall be posted (if practical) in a prominent location where the property was found advising the owner where and how the property can be reclaimed.

**Abandoned Property** - Includes all things intentionally abandoned by the owner (Civil Code § 2080.7). Abandoned Property is not required to be taken for safekeeping and may be disposed of or removed from Park property.

### 802.3 PROPERTY HANDLING

Any employee who first comes into possession of any property shall retain such property in his/her possession until it is properly tagged and placed in the designated property locker or storage room along with a property form. Care shall be taken to maintain the chain of custody for all evidence.

Where ownership of found property can be established, with no apparent evidentiary value, such property may be released to the owner without the need for booking. The property form must be completed to document the release of property not booked and the owner shall sign the form acknowledging receipt of the items.

#### 802.3.1 PROPERTY BOOKING PROCEDURE

All property must be booked prior to the employee going off-duty unless otherwise approved by a supervisor. Employees booking property shall observe the following guidelines:

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- (a) Complete the property form describing each item of property separately, listing all serial numbers, owner's name, finder's name, and other identifying information or markings.
- (b) Mark each item of evidence with the booking employee's initials and the date booked using the appropriate method so as not to deface or damage the value of the property.
- (c) Complete an evidence/property tag and attach it to each package or envelope in which the property is stored.
- (d) Place the case number in the upper right hand corner of whatever packaging is used for storage/safekeeping.
- (e) The original property form shall be submitted with the case report. A copy shall be placed with the property in the temporary property locker or with the property if property is stored somewhere other than a property locker.
- (f) When the property is too large to be placed in a locker, the item may be retained in the designated oversized property storage area.. Submit the completed property record to the property room through established local protocol, indicating the location of the property.

#### 802.3.2 NARCOTICS AND DANGEROUS DRUGS

All narcotics, dangerous drugs, and prescription medication shall be booked separately using a separate property record. Paraphernalia as defined by Health & Safety Code § 11364 shall also be booked separately.

The officer seizing these items shall place them in the designated locker accompanied by the property form. The original property form will be submitted with the case report.

#### 802.3.3 EXPLOSIVES

Officers who encounter a suspected explosive device shall promptly notify their immediate supervisor or the Shift Supervisor. The bomb squad will be called to handle explosive-related incidents and will be responsible for the handling, storage, sampling and disposal of all suspected explosives.

Explosives will not be retained in the Department facility. Only fireworks that are considered stable and safe and road flares or similar signaling devices may be booked into property. All such items shall be stored in proper containers and in an area designated for the storage of flammable materials. The Property Officer is responsible for safe destruction of any fireworks or signaling devices that are not retained as evidence or for safekeeping.

#### 802.3.4 HAZARD ASSESSMENT OF FOUND PROPERTY

A Department employee shall inspect all Found Property prior to collection or storage for health and safety hazards. Items that are determined to be health and safety hazards shall be documented, removed, and transported to an authorized disposal facility. Hazardous items are defined as items that pose a health or safety risk to members of the public, Department employees or other authorized personnel. The following items of Found Property are hazards and should not be stored. These items should be safely disposed by proper means:

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- (a) Flammable substances or pressurized containers;
- (b) Toxic, reactive, corrosive, or chemical substances;
- (c) Soiled or pest-infested items;
- (d) Items with blood or body fluids;
- (e) Mattresses;
- (f) Broken items (including non-operational bicycles);
- (g) Perishables
- (h) Needles;
- (i) Any other items that may present a health or safety hazard.

Health and safety is a Department priority. Therefore, the summary disposal of garbage, debris, waste, hazardous items and other like material may occur without a Pre-Removal Notice.

Hazardous materials shall be identified before handling, will only be handled with proper training and personal safety equipment, and such items will be properly disposed of after documentation. (For a sample inventory, [See attachment: Appendix D - Health and Safety Hazard Evaluation.pdf](#)). If an owner is present, or known, the owner shall be asked to immediately remove the hazardous item. If the owner does not promptly comply, or the owner is unknown, the hazardous items may be immediately removed without a Pre-Removal Notice.

#### 802.3.5 BULKY ITEMS

Bulky Items mean any item too large to fit into a sealed container, including, but not limited to a shed, tent, structure, mattress, couch, furniture, or appliances. Bulky Items do not include operational bicycles, operational walkers, crutches, or wheelchairs.

**Unattended Bulky Items:** Unattended Bulky Items may be removed after the notice procedures in Section 463.7.5 are completed. Non-electronic Bulky Items may be disposed as trash or rubbish. Electronic bulky items which fall under the classification of electronic-waste ("E-waste") shall be specifically disposed of in accordance with California law. The Bulky Items shall be documented and photographed before disposal.

**Attended Bulky Items:** Owner(s) will be allowed a reasonable time to remove attended Bulky Items. If the owner is physically or mentally impaired and incapable of removing the items, an officer or local homeless service provider can be contacted to assist. If the owner refuses to remove the Bulky Item, the Bulky Item(s) shall be documented and photographed before disposal by Department staff.

#### 802.3.6 EXCEPTIONAL HANDLING

Certain property items require a separate process. The following items shall be processed in the described manner:

- (a) Bodily fluids such as blood or semen stains shall be air dried prior to booking.

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- (b) All bicycles and bicycle frames require a property form. Property tags will be securely attached to each bicycle or bicycle frame. The property may be released directly to the Property Officer, or placed in the bicycle storage area until a Property Officer can log the property.
- (c) All cash shall be counted in the presence of a supervisor and the envelope initialed by the booking officer and the supervisor. The supervisor shall be contacted for cash in excess of \$1,000 for special handling procedures.

State property, unless connected to a known criminal case, should be released directly to the appropriate State department. No formal booking is required. In cases where no responsible person can be located, the property should be booked for safekeeping in the normal manner.

#### **802.3.7 ABANDONED PROPERTY**

If a Department employee has an objectively reasonable belief based on the totality of the circumstances that property is abandoned, the items should be disposed of properly. It is recommended that officers document the items and the basis for their belief that the items are abandoned (For a sample, [See attachment: Appendix E - Abandoned Property Evaluation.pdf](#)). Factors include, but are not limited to:

- (a) The type, condition, repair, or cleanliness of the items;
- (b) The location of the items;
- (c) The arrangement of the items;
- (d) The extended duration that the items have been left unattended. (Note: Personal Property is not considered abandoned simply because it is left temporarily unattended.)
- (e) Statements indicating an intent to abandon the property by the previous owner or other actions implying abandonment; or
- (f) Multiple, previous, and unheeded warnings or notices to remove the items.

#### **802.4 PACKAGING OF PROPERTY**

Certain items require special consideration with regard to storage and packaging and shall be booked separately as follows:

- (a) Narcotics and dangerous drugs
- (b) Firearms (ensure they are unloaded and booked separately from ammunition)
- (c) Property with more than one known owner
- (d) Paraphernalia as described in Health and Safety Code § 11364
- (e) Fireworks
- (f) Contraband

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##### **802.4.1 PACKAGING CONTAINER**

Employees shall package all property, except narcotics and dangerous drugs in a suitable container available for its size. Knife boxes should be used to package knives, and syringe tubes should be used to package syringes and needles.

A property tag shall be securely attached to the outside of all items or group of items packaged together.

##### **802.4.2 PACKAGING NARCOTICS**

The officer seizing narcotics and dangerous drugs shall retain such property in his/her possession until it is properly weighed, packaged, tagged, and placed in the designated narcotics locker, accompanied by two copies of the appropriate property form. Prior to packaging and if the quantity allows, a presumptive test by qualified personnel may be made on all suspected narcotics.

Narcotics and dangerous drugs shall be packaged in an appropriately sized container. The booking officer shall initial the sealed envelope and the initials covered with cellophane tape. Narcotics and dangerous drugs shall not be packaged with other property.

A completed property form shall be attached to the outside of the container. The chain of evidence shall be recorded per District protocols.

#### **802.5 RECORDING OF PROPERTY**

The Property Officer receiving custody of evidence or property shall record his/her signature, the date and time the property was received and where the property will be stored on the property form.

A property number shall be obtained for each item or group of items. This number shall be recorded on the appropriate reports and property tag and the property forms.

Any changes in the location of property held by the California Department of Parks and Recreation shall be noted on the property form, and a property log if maintained by local protocol.

#### **802.6 PROPERTY CONTROL**

Each time the Property Officer receives property or releases property to another person, he/she shall enter this information on the property form. Officers desiring property for court shall contact the Property Officer within a reasonable time frame to ensure release for court.

##### **802.6.1 RESPONSIBILITY OF OTHER PERSONNEL**

Every time property is released or received, an appropriate entry on the evidence package shall be completed to maintain the chain of evidence. No property or evidence is to be released without first receiving written authorization from a supervisor or detective.

Request for analysis for items other than narcotics or drugs shall be completed on the appropriate forms and submitted to the Property Officer. This request may be filled out any time after booking of the property or evidence.



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##### 802.6.2 TRANSFER OF EVIDENCE TO CRIME LABORATORY

The transporting employee will check the evidence out of property, indicating the date and time on the property control card and the request for laboratory analysis.

The Property Officer releasing the evidence must complete the required information on the property control card and the evidence. The lab forms will be transported with the property to the examining laboratory. Upon delivering the item involved, the officer will record the delivery time on both copies, and indicate the locker in which the item was placed or the employee to whom it was delivered. The original copy of the lab form will remain with the evidence and the copy will be returned to the Records Center for filing with the case.

##### 802.6.3 STATUS OF PROPERTY

Each person receiving property will make the appropriate entry to document the chain of custody, if applicable. Temporary release of property to officers for investigative purposes, or for court, shall be noted on the property form, stating the date, time and to whom released.

The Property Officer shall obtain the signature of the person to whom property is released, and the reason for release. Any employee receiving property shall be responsible for such property until it is properly returned to the property room or properly released to another authorized person or entity.

The return of the property should be recorded on the property form, indicating date, time, and the person who returned the property.

##### 802.6.4 AUTHORITY TO RELEASE PROPERTY

The Chief Ranger shall appoint a minimum of one State Park Peace Officer to serve as the District Evidence Custodian. More may be appointed based on District size and/or number of property rooms. The Chief Ranger may appoint a non-SPPO to serve in this capacity if the employee has undergone a background investigation conducted by the Law Enforcement and Emergency Services Division Background Unit. District Evidence Custodians shall authorize the disposition or release of all evidence and property coming into the care and custody of the Department.

##### 802.6.5 RELEASE OF PROPERTY

All reasonable attempts shall be made to identify the rightful owner of found property or evidence not needed for an investigation.

Release of property shall be made upon receipt of an authorized release form, listing the name and address of the person to whom the property is to be released. A release authorization shall be signed by a supervisor and must specify the item(s) to be released. Release of all property shall be documented on a property form.

With the exception of firearms and other property specifically regulated by statute, found property and property held for safekeeping shall be held for a minimum of 90 days. During such period, the property custodian shall attempt to contact the rightful owner by telephone and/or mail when sufficient identifying information is available. Property not held for any other purpose and not claimed within 90 days after notification (or receipt, if notification is not feasible) may be auctioned

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to the highest bidder at a properly published public auction. If such property is not sold at auction or otherwise lawfully claimed, it may thereafter be destroyed (Civil Code § 2080.6). The final disposition of all such property shall be fully documented in related reports.

An officer shall release the property to its owner upon presentation of proper identification and execution of a release. A signature of the person receiving the property shall be recorded on the original property form. Upon release, the proper entry shall be documented in the Property Log.

Under no circumstances shall any firearm be returned to any individual unless and until such person presents valid identification and written notification from the California Department of Justice that conforms to the provisions of Penal Code § 33865.

The officer should also make reasonable efforts to determine whether the person is the subject of any court order preventing the person from possessing a firearm and, if so, the firearm should not be released to the person while the order is in effect. The Department is not required to retain any firearm or other deadly weapon longer than 180 days after notice has been provided to the owner that such firearm or other deadly weapon is available for return. At the expiration of such period, the firearm or other deadly weapon may be processed for disposal in accordance with applicable law (Penal Code § 33875).

#### 802.6.6 DISPUTED CLAIMS TO PROPERTY

Occasionally more than one party may claim an interest in property being held by the Department, and the legal rights of the parties cannot be clearly established. Such property shall not be released until one party has obtained a valid court order or other undisputed right to the involved property.

All parties should be advised that their claims are civil and in extreme situations, legal counsel for the Department may wish to file an interpleader to resolve the disputed claim (Code of Civil Procedure § 386(b)).

#### 802.6.7 CONTROL OF NARCOTICS AND DANGEROUS DRUGS

The Law Enforcement and Emergency Services Division will be responsible for the storage, control and destruction of all narcotics and dangerous drugs coming into the custody of this department, including paraphernalia as described in Health & Safety Code § 11364.

#### 802.6.8 RELEASE OF FIREARM IN DOMESTIC VIOLENCE MATTERS

Within five days of the expiration of a restraining order issued in a domestic violence matter that required the relinquishment of a firearm or ammunition, the Property Officer shall return the weapon or ammunition to the owner if the requirements of Penal Code § 33850 and Penal Code § 33855 are met, unless the firearm or ammunition is determined to be stolen, evidence in a criminal investigation, or the individual is otherwise prohibited from possessing a firearm (Family Code § 6389(g); Penal Code § 33855).

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##### **802.6.9 RELEASE OF FIREARMS AND WEAPONS IN MENTAL ILLNESS MATTERS**

Firearms and other deadly weapons confiscated from an individual detained for an evaluation by a mental health professional or subject to the provisions of Welfare and Institutions Code § 8100 or Welfare and Institutions Code § 8103 shall be released or disposed of as follows:

- (a) If a petition for a hearing regarding the return of the weapon has been initiated pursuant to Welfare and Institutions Code § 8102(c), the weapon shall be released or disposed of as provided by an order of the court. If the court orders a firearm returned, the firearm shall not be returned unless and until the person presents valid identification and written notification from the California Department of Justice (DOJ) which conforms to the provisions of Penal Code § 33865.
- (b) If no petition has been initiated pursuant to Welfare and Institutions Code § 8102(c) and the weapon is not retained as evidence, the Department shall make the weapon available for return. No firearm will be returned unless and until the person presents valid identification and written notification from the California DOJ which conforms to the provisions of Penal Code § 33865.
- (c) Unless the person contacts the Department to facilitate the sale or transfer of the firearm to a licensed dealer pursuant to Penal Code § 33870, firearms not returned should be sold, transferred, destroyed, or retained as provided in Welfare and Institutions Code § 8102.

##### **802.7 DISPOSITION OF PROPERTY**

All property not held for evidence in a pending criminal investigation or proceeding, and held for six months or longer where the owner has not been located or fails to claim the property, may be disposed of in compliance with existing laws upon receipt of proper authorization for disposal. The Property Officer shall request a disposition or status on all property which has been held in excess of 120 days, and for which no disposition has been received from a supervisor or detective.

##### **802.7.1 EXCEPTIONAL DISPOSITIONS**

The following types of property shall be destroyed or disposed of in the manner, and at the time prescribed by law, unless a different disposition is ordered by a court of competent jurisdiction:

- Weapons declared by law to be nuisances (Penal Code § 29300; Penal Code § 18010; Penal Code § 32750)
- Animals, birds, and related equipment that have been ordered forfeited by the court (Penal Code § 599a)
- Counterfeiting equipment (Penal Code § 480)
- Gaming devices (Penal Code § 335a)
- Obscene matter ordered to be destroyed by the court (Penal Code § 312)
- Altered vehicles or component parts (Vehicle Code § 10751)
- Narcotics (Health and Safety Code § 11474, etc.)
- Unclaimed, stolen, or embezzled property (Penal Code § 1411)

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- Destructive devices (Penal Code § 19000)

#### 802.7.2 RETENTION OF BIOLOGICAL EVIDENCE

The Chief Ranger shall ensure that no biological evidence held by the Department is destroyed without adequate notification to the following persons, when applicable:

- (a) The defendant
- (b) The defendant's attorney
- (c) The appropriate prosecutor and Attorney General
- (d) Any sexual assault victim
- (e) The Districts Division supervisor

Biological evidence shall be retained for a minimum period established by law (Penal Code § 1417.9) or the expiration of any sentence imposed related to the evidence, whichever time period is greater. Following the retention period, notifications should be made by certified mail and should inform the recipient that the evidence will be destroyed after a date specified in the notice unless a motion seeking an order to retain the sample is filed and served on the Department within 90 days of the date of the notification. A record of all certified mail receipts shall be retained in the appropriate file. Any objection to, or motion regarding, the destruction of the biological evidence should be retained in the appropriate file and a copy forwarded to the Chief Ranger.

Biological evidence related to a homicide shall be retained indefinitely and may only be destroyed with the written approval of the Chief Ranger and the head of the applicable prosecutor's office.

Biological evidence or other crime scene evidence from an unsolved sexual assault should not be disposed of prior to expiration of the statute of limitations and shall be retained as required in Penal Code § 680. Even after expiration of an applicable statute of limitations, the Chief Ranger should be consulted and the sexual assault victim should be notified.

#### 802.8 INSPECTIONS OF THE EVIDENCE ROOM

- (a) On a monthly basis, the supervisor of the evidence custodian shall make an inspection of the evidence storage facilities and practices to ensure adherence to appropriate policies and procedures.
- (b) Unannounced inspections of evidence storage areas shall be conducted annually as directed by the Chief Ranger.
- (c) Periodic audits of evidence held by the District may be conducted by the Chief of Law Enforcement and Emergency Services (as directed by the Chief, LEES Division).
- (d) Whenever a change is made in personnel who have access to the evidence room, an inventory of all evidence/property shall be made by an individual(s) not associated to the property room or function to ensure that records are correct and all evidence property is accounted for.

## District Records Procedures

### 804.1 PURPOSE AND SCOPE

The Chief Ranger, or their designee, shall maintain the original crime, accident, and incident reports, for any paper reports, at the District Office. Those reports created in the Parks Records Management System (PRMS) shall be maintained as a digital record; it is not necessary to hold a separate paper copy. Emergency Medical Services (EMS) reports shall not be stored with the related crime, accident, or incident reports. Refer to DOM Chapter 11 for information on EMS reports.

#### 804.1.1 PARKS RECORDS MANAGEMENT SYSTEM

The Department has adopted an online records management system. All applicable reports will be completed in the system and stored electronically.

- (a) Modifications to the system shall be reviewed for approval, prior to implementation, by a Change Control Board (CCB). The members of the CCB will be designated by the Chief of the Law Enforcement and Emergency Services Division.
- (b) Submission of modification requests can be made to the Assistant Chief of LEESD – Telecommunications.

#### 804.1.2 NUMERICAL FILING SYSTEM

Case reports are filed numerically within the Records Center by Records Center personnel. Reports created in PRMS are automatically catalogued by their assigned event number.

Reports are numbered commencing with the last two digits of the current year followed by the two digits representing the current month and two digits representing the current day of the report in question. This is followed by the abbreviation for the communications center issuing the event number; SUR for SURCOM and NOR for NORCOM. A sequential number beginning with 0001 starting at midnight each day follows the date and communication center sequence. This number will be generated by the communication center for the jurisdiction creating the report. A report number corresponds to the date of the report, not necessarily the date of the incident. This sequence is represented as YYMMDDSUR-1234 or YYMMDDNOR-1234. When entering the sequence in PRMS the communications center is only represented by a single letter; “S” or “N”. For example, YYMMDDS-1234 or YYMMDDN-1234.

### 804.2 POLICY

It is the policy of the California Department of Parks and Recreation to maintain department records securely, professionally, and efficiently.

#### 804.2.1 FILE ACCESS AND SECURITY

Generally, original reports shall not be removed from the District Office or exported from PRMS. Should an original report be needed for any reason the requesting employee shall first obtain authorization from the Chief Ranger, or designee. All original reports removed from the District Office shall be recorded on the Report Check-Out Log which shall constitute the only authorized

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manner by which an original report may be removed from the District Office. A legitimate law enforcement or business purpose must be listed in the remarks when exporting a report from PRMS.

#### **804.2.2 REQUESTING ORIGINAL REPORTS**

Generally, original reports shall not be removed from the Law Enforcement and Emergency Services Division Office. Should an original report be needed for any reason the requesting employee shall first obtain authorization from the Law Enforcement and Emergency Services Division Superintendent. All original reports removed from the Law Enforcement and Emergency Services Division Office shall be recorded on the Report Check-Out Log which shall constitute the only authorized manner by which an original report may be removed from the Law Enforcement and Emergency Services Division Office.

#### **804.2.3 USER ROLES AND PERMISSIONS**

Within PRMS permissions are established by User Roles. Appropriate trainings and certifications are required to access different levels of user roles; i.e CLETS and background approval for Records. The following User Roles exist:

- (a) All Department Users – All Users: This role is to be applied to all PRMS accounts.
- (b) Evidence: This role is for all evidence technicians and/or custodians.
- (c) Local Admin: This role should be limited to the Chief Ranger, or designee. The role can manage some settings within the PRMS system.
- (d) Records: This role is limited to those persons in the district responsible for filing and maintaining crime/incident records; generally, the Chief Ranger and a records clerk.
- (e) Report Writer: This role is the primary role for officers submitting reports in the system.
- (f) Other Report Submitter: This role may be used by other classifications that may need to submit reports in support of other users.
- (g) Supervisor: This role is for all supervisory and managerial officers responsible for approving reports in the system.
- (h) System Admin: This role is responsible for departmentwide management of this system and works at the pleasure of the Chief of Law Enforcement and Emergency Services.

#### **804.3 DETERMINATION OF FACTUAL INNOCENCE**

In any case where a person has been arrested by officers of the California Department of Parks and Recreation and no accusatory pleading has been filed, the person arrested may petition the Department to seal the related arrest records. Petitions should be forwarded to the Chief Ranger or his/her designee. The appropriate personnel should promptly contact the prosecuting attorney and request a written opinion as to whether the petitioner is factually innocent of the charges (Penal Code § 851.8). Factual innocence means the accused person did not commit the crime.

Upon receipt of a written opinion from the prosecuting attorney affirming factual innocence, the District should forward the petition to the Chief Ranger and the Attorney General for review. After

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such review and consultation with the Attorney General, the Chief Ranger shall decide whether a finding of factual innocence is appropriate.

Upon determination that a finding of factual innocence is appropriate, the Chief Ranger shall ensure that the arrest record and petition are sealed for later destruction and the required notifications are made to the California Department of Justice and other law enforcement agencies (Penal Code § 851.8).

The Chief Ranger (or designee) should respond to a petition with the Department's decision within 45 days of receipt. Responses should include only the decision of the Department, not an explanation of the analysis leading to the decision.

#### **804.4 ANNUAL REPORTING**

The Law Enforcement and Emergency Services Division will require Districts to submit annual summaries of crime and incident statistics. The Chief Ranger, or his/her designee, will be responsible for submitting these punctually as to assigned deadline.

## Records Maintenance and Release

### 808.1 PURPOSE AND SCOPE

This policy provides guidance on the maintenance and release of department records. Protected information is separately covered in the Protected Information Policy.

### 808.2 POLICY

The California Department of Parks and Recreation is committed to providing public access to records in a manner that is consistent with the California Public Records Act (Government Code § 7920.000 et seq.).

#### 808.2.1 PROCESSING OF REQUESTS

Any member of the public, including the media and elected officials, may access unrestricted records of this department by submitting a written and signed request for each record sought and paying any associated fees (Government Code § 6253). The processing of requests is subject to the following limitations:

- (a) The employee processing the request shall determine if the requested record is available and, if so, whether the record is exempt from disclosure. Either the requested record or the reason for non-disclosure will be provided promptly, but no later than 10 days from the date of request, unless unusual circumstances preclude doing so. If more time is needed, an extension of up to 14 additional days may be authorized by the Deputy Director, Park Operations or the authorized designee. If an extension is authorized, the Department shall provide written notice of the extension to the requesting party (Government Code § 6253(c)).
- (b) In accordance with the Public Records Act, the Department is not required to create records that do not otherwise exist in order to accommodate a request under the Act.

Requests by elected officials for records that are not open to public inspection should be referred to the Administrative Services Division Chief for a determination as to whether the records will be released.

### 808.3 CUSTODIAN OF RECORDS RESPONSIBILITIES

The Chief Ranger shall designate a Custodian of Records for each district. The responsibilities of the Custodian of Records include but are not limited to:

- (a) Managing the records management system for the Department, including the retention, archiving, release, and destruction of department public records.
- (b) Maintaining and updating the department records retention schedule including:
  - 1. Identifying the minimum length of time the Department must keep records.
  - 2. Identifying the department division responsible for the original record.
- (c) Establishing rules regarding the inspection and copying of department public records as reasonably necessary for the protection of such records (Government Code § 7922.525; Government Code § 7922.530).



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- (d) Identifying records or portions of records that are confidential under state or federal law and not open for inspection or copying.
- (e) Establishing rules regarding the processing of subpoenas for the production of records.
- (f) Ensuring a current schedule of fees for public records as allowed by law is available (Government Code § 7922.530).
- (g) Determining how the department's website may be used to post public records in accordance with Government Code § 7922.545.
- (h) Ensuring that all department current standards, policies, practices, operating procedures, and education and training materials are posted on the department website in accordance with Penal Code § 13650.
- (i) Ensuring that public records posted on the Department website meet the requirements of Government Code § 7922.680 including but not limited to posting in an open format where a record may be retrieved, downloaded, indexed, and searched by a commonly used internet search application.
- (j) Ensuring that a list and description, when applicable, of enterprise systems (as defined by Government Code § 7922.700) is publicly available upon request and posted in a prominent location on the Department's website (Government Code § 7922.710; Government Code § 7922.720).

#### 808.3.1 GENERAL CASE AND CRIME REPORTS

Reports containing any of the items listed below will not be released:

- (a) **Victim information** - Victims of crimes who have requested that their identifying information be kept confidential, victims who are minors and victims of certain offenses (e.g., sex crimes, Penal Code § 293) shall not be made public. No employee shall disclose to any arrested person or to any person who may be a defendant in a criminal action the address or telephone number of any person who is a victim or witness in the alleged offense, unless it is required by law (Penal Code § 841.5).
- (b) **Confidential information** - Information involving confidential informants, intelligence information, information that would endanger the safety of any person involved or information that would endanger the successful completion of the investigation or a related investigation shall not be made public.
  - 1. Analysis and conclusions of investigating officers may also be exempt from disclosure.
  - 2. If it has been noted in any report that any individual wishes to protect his/her right to privacy under the California Constitution, such information may not be subject to public disclosure.
- (c) **Specific crimes** - Certain types of reports involving, but not limited to, **child abuse/molestation** (Penal Code § 11167.5), **elder abuse** (Welfare and Institutions Code § 15633) and **juveniles** (Welfare and Institutions Code § 827) shall not be made public.

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- (d) **General information** - Absent statutory exemption to the contrary or other lawful reason to deem information from reports confidential, information from unrestricted agency reports shall be made public as outlined in Government Code § 6254(f).
- (e) **Deceased juvenile crime victims** - The Code of Civil Procedure § 130 limits the dissemination of autopsy and private medical information concerning a murdered child by allowing families to request that the autopsy report of the victim be sealed from public inspection. Such requests shall be honored, with the exceptions that allow dissemination of those reports to law enforcement agents, prosecutors, defendants or civil litigants under state and federal discovery laws (Code of Civil Procedure §130).

#### 808.3.2 ARREST REPORTS

Arrestee information shall be subject to release in the same manner as information contained in other reports as set forth above.

In addition to the restrictions stated above, all requests from criminal defendants and their authorized representatives (including attorneys) shall be referred to the Property and Evidence Section Attorney, Attorney General or the courts pursuant to Penal Code § 1054.5.

Local criminal history information including, but not limited to, arrest history and disposition, and fingerprints shall only be subject to release to those agencies and individuals set forth in Penal Code § 13300.

#### 808.3.3 TRAFFIC COLLISION REPORTS

Traffic collision reports (and related supplemental reports) shall be considered confidential and subject to release only to the California Highway Patrol, Department of Motor Vehicles (DMV), other law enforcement agencies and those individuals and their authorized representatives set forth in Vehicle Code § 20012.

#### 808.3.4 PERSONNEL RECORDS

Personnel records, medical records and similar records which would involve personal privacy shall not be made public (Government Code § 3303(e)).

Peace officer personnel records are deemed confidential (Penal Code § 832.7, et seq.) and shall not be made public or otherwise released to unauthorized individuals or entities absent a valid court order ( Evidence Code § 1043, et seq.).

The identity of any officer subject to any criminal or administrative investigation shall not be released without the consent of the involved officer, prior approval of the Deputy Director, Park Operations or as required by law (Government Code § 3300 (e)).

Home addresses and phone numbers of state employees shall not be released (Government Code §6254.3(a)). Home addresses and telephone numbers of public safety officials, such as active or retired State Park Peace Officers (including Firefighter/Security Officers) shall not be released (Government Code §§6254.21(f)(13) and 6254.24).

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##### **808.3.5 DOMESTIC VIOLENCE REPORTS**

Victims of domestic violence or their representative shall be provided, without charge, one copy of all domestic violence incident report face sheets, one copy of all domestic violence incident reports, or both, pursuant to the requirements and time frames of Family Code § 6228.

##### **808.3.6 EMERGENCY MEDICAL SERVICES (EMS) REPORTS**

EMS reports may only be released as follows:

- (a) Upon the patient's written request (no charge for copies)
- (b) Upon request with patient authorization
- (c) By order of a court
- (d) To an Emergency Medical Services Agency under its lawful authority
- (e) Pursuant to a subpoena, Subpoena Duces Tecum
- (f) By order of a lawful search warrant
- (g) To the patient or patient's representative
- (h) To the coroner subject to limitations of the California Civil Code § 56.10(b)(8)
- (i) When otherwise required by law
- (j) To other health care providers as needed for diagnosis or treatment of the patient
- (k) To a medical data processing entity
- (l) For the EMS Quality Improvement process
- (m) Information limited to patient's name, city of residence, age, sex, and general condition may be disclosed to a state-recognized or federally recognized disaster relief organization for the purpose of responding to disaster welfare inquiries (California Civil Code §§ 56.07 and 56.101)

#### **808.4 PROCESSING REQUESTS FOR PUBLIC RECORDS**

Any department member who receives a request for any record shall route the request to the Custodian of Records or the authorized designee.

##### **808.4.1 REQUESTS FOR RECORDS**

Any member of the public, including the media and elected officials, may access unrestricted records of this department, during regular business hours by submitting a written and signed request that reasonably describes each record sought and paying any associated fees (Government Code § 7922.530).

The processing of requests for any record is subject to the following (Government Code § 7922.530; Government Code § 7922.535):

- (a) The Department is not required to create records that do not exist.
- (b) Victims of an incident or their authorized representative shall not be required to show proof of legal presence in the United States to obtain department records or information. If identification is required, a current driver's license or identification card

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issued by any state in the United States, a current passport issued by the United States or a foreign government with which the United States has a diplomatic relationship or current Matricula Consular card is acceptable (Government Code § 7923.655).

- (c) Either the requested record or the reason for non-disclosure will be provided promptly, but no later than 10 days from the date of request, unless unusual circumstances preclude doing so. If more time is needed, an extension of up to 14 additional days may be authorized by the Custodian of Records or the authorized designee. If an extension is authorized, the Department shall provide the requester written notice that includes the reason for the extension and the anticipated date of the response.
  - 1. When the request does not reasonably describe the records sought, the Custodian of Records shall assist the requester in making the request focused and effective in a way to identify the records or information that would be responsive to the request including providing assistance for overcoming any practical basis for denying access to the records or information. The Custodian of Records shall also assist in describing the information technology and physical location in which the record exists (Government Code § 7922.600).
  - 2. If the record requested is available on the department website, the requester may be directed to the location on the website where the record is posted. If the requester is unable to access or reproduce the record, a copy of the record shall be promptly provided.
- (d) Upon request, a record shall be provided in an electronic format utilized by the Department. Records shall not be provided only in electronic format unless specifically requested (Government Code § 7922.570; Government Code § 7922.580).
- (e) When a record contains material with release restrictions and material that is not subject to release restrictions, the restricted material shall be redacted and the unrestricted material released.
  - 1. A copy of the redacted release should be maintained in the case file for proof of what was actually released and as a place to document the reasons for the redactions. If the record is audio or video, a copy of the redacted audio/video release should be maintained in the department-approved media storage system and a notation should be made in the case file to document the release and the reasons for the redacted portions.
- (f) If a record request is denied in whole or part, the requester shall be provided a written response that includes the statutory exemption for withholding the record or facts that the public interest served by nondisclosure outweighs the interest served by disclosure. The written response shall also include the names, titles, or positions of each person responsible for the denial (Government Code § 7922.000; Government Code § 7922.540).

#### **808.5 RELEASE RESTRICTIONS**

Examples of release restrictions include:

- (a) Personal identifying information, including an individual's photograph; Social Security and driver identification numbers; name, address, and telephone number; and medical or disability information that is contained in any driver license record, motor vehicle

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record, or any department record, including traffic collision reports, are restricted except as authorized by the Department, and only when such use or disclosure is permitted or required by law to carry out a legitimate law enforcement purpose (18 USC § 2721; 18 USC § 2722).

- (b) Social Security numbers (Government Code § 7922.200).
- (c) Personnel records, medical records, and similar records that would involve an unwarranted invasion of personal privacy except as allowed by law (Government Code § 7927.700; Penal Code § 832.7; Penal Code § 832.8; Evidence Code § 1043 et seq.).
  - 1. Peace officer personnel records that are deemed confidential shall not be made public or otherwise released to unauthorized individuals or entities absent a valid court order.
  - 2. The identity of any officer subject to any criminal or administrative investigation shall not be released without the consent of the involved officer, prior approval of the Deputy Director, Park Operations, or as required by law.
- (d) Victim information that may be protected by statutes, including victims of certain crimes who have requested that their identifying information be kept confidential, victims who are minors, and victims of certain offenses (e.g., sex crimes or human trafficking (Penal Code § 293)). Addresses and telephone numbers of a victim or a witness shall not be disclosed to any arrested person or to any person who may be a defendant in a criminal action unless it is required by law (Government Code § 7923.615; Penal Code § 841.5).
  - 1. Victims of certain offenses (e.g., domestic violence, sexual assault, stalking, human trafficking, elder and dependent adult abuse) or their representatives shall be provided, upon request and without charge, one copy of all incident report face sheets, one copy of all incident reports, a copy of any accompanying or related photographs of the victim's injuries, property damage, or any other photographs that are noted in the incident report, and a copy of 9-1-1 recordings, if any, pursuant to the requirements and time frames of Family Code § 6228.
  - 2. Victims of sexual assault, upon written request, shall be provided a free copy of the initial crime report regardless of whether the report has been closed. Personal identifying information may be redacted (Penal Code § 680.2(b)).
- (e) Video or audio recordings created during the commission or investigation of the crime of rape, incest, sexual assault, domestic violence, or child abuse that depicts the face, intimate body part, or voice of a victim of the incident except as provided by Government Code § 7923.750.
- (f) Information involving confidential informants, intelligence information, information that would endanger the safety of any person involved, or information that would endanger the successful completion of the investigation or a related investigation. This includes analysis and conclusions of investigating officers (Evidence Code § 1041; Government Code § 7923.605).
  - 1. Absent a statutory exemption to the contrary or other lawful reason to deem information from reports confidential, information from unrestricted agency reports shall be made public as outlined in Government Code § 7923.605.

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- (g) Local criminal history information including but not limited to arrest history and disposition, and fingerprints shall only be subject to release to those agencies and individuals set forth in Penal Code § 13300.
  - 1. All requests from criminal defendants and their authorized representatives (including attorneys) shall be referred to the Attorney General, the Attorney General, or the courts pursuant to Penal Code § 1054.5.
- (h) Certain types of reports involving but not limited to child abuse and molestation (Penal Code § 11167.5), elder and dependent abuse (Welfare and Institutions Code § 15633), and juveniles (Welfare and Institutions Code § 827).
- (i) Sealed autopsy and private medical information concerning a murdered child with the exceptions that allow dissemination of those reports to law enforcement agents, prosecutors, defendants, or civil litigants under state and federal discovery laws (Code of Civil Procedure § 130).
- (j) Information contained in applications for licenses to carry firearms or other files that indicates when or where the applicant is vulnerable or which contains medical or psychological information (Government Code § 7923.800).
- (k) Traffic collision reports (and related supplemental reports) shall be considered confidential and subject to release only to the California Highway Patrol, Department of Motor Vehicles (DMV), other law enforcement agencies, and those individuals and their authorized representatives set forth in Vehicle Code § 20012.
- (l) Any record created exclusively in anticipation of potential litigation involving this department (Government Code § 7927.200).
- (m) Any memorandum from legal counsel until the pending litigation has been adjudicated or otherwise settled (Government Code § 7927.205).
- (n) Records relating to the security of the department's electronic technology systems (Government Code § 7929.210).
- (o) A record of a complaint, or the investigations, findings, or dispositions of that complaint if the complaint is frivolous, as defined by Code of Civil Procedure § 128.5, or if the complaint is unfounded (Penal Code § 832.7 (b)(9)).
- (p) Any other record not addressed in this policy shall not be subject to release where such record is exempt or prohibited from disclosure pursuant to state or federal law, including but not limited to provisions of the Evidence Code relating to privilege (Government Code § 7927.705).
- (q) Information connected with juvenile court proceedings or the detention or custody of a juvenile. Federal officials may be required to obtain a court order to obtain certain juvenile information (Welfare and Institutions Code § 827.9; Welfare and Institutions Code § 827.95; Welfare and Institutions Code § 831).

#### **808.6 SUBPOENAS AND DISCOVERY REQUESTS**

Any member who receives a subpoena duces tecum or discovery request for records should promptly contact a supervisor and the Custodian of Records for review and processing. While a

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subpoena duces tecum may ultimately be subject to compliance, it is not an order from the court that will automatically require the release of the requested information.

Generally, discovery requests and subpoenas from criminal defendants and their authorized representatives (including attorneys) should be referred to the District Attorney, Attorney General or the courts.

All questions regarding compliance with any subpoena duces tecum or discovery request should be promptly referred to legal counsel for the Department so that a timely response can be prepared.

#### **808.7 RELEASE OF AUDIO OR VIDEO RECORDINGS RELATED TO CRITICAL INCIDENTS**

Video and audio recordings related to critical incidents shall be released upon a proper public record request and subject to delayed release, redaction, and other release restrictions as provided by law (Government Code § 7923.625).

For purposes of this section, a video or audio recording relates to a critical incident if it depicts an incident involving the discharge of a firearm at a person by an officer, or depicts an incident in which the use of force by an officer against a person resulted in death or in great bodily injury (as defined by Penal Code § 243(f)(4)) (Government Code § 7923.625).

The Custodian of Records should work as appropriate with the Deputy Director, Park Operations or the Internal Affairs Unit supervisor in determining what recordings may qualify for disclosure when a request for a recording is received and if the requested recording is subject to delay from disclosure, redaction, or other release restrictions.

##### **808.7.1 DELAY OF RELEASE**

Disclosure of critical incident recordings during active criminal or administrative investigations may be delayed as follows if disclosure would substantially interfere with the investigation, such as by endangering the safety of a witness or a confidential source:

- (a) Disclosure may be delayed up to 45 days from the date the Department knew or reasonably should have known about the incident.
- (b) Delay of disclosure may continue after the initial 45 days and up to one year if the Department demonstrates that disclosure would substantially interfere with the investigation.
- (c) Any delay of disclosure longer than one year must be supported by clear and convincing evidence that disclosure would substantially interfere with the investigation (Government Code § 7923.625).

##### **808.7.2 NOTICE OF DELAY OF RELEASE**

When there is justification to delay disclosure of a recording, the Custodian of Records shall provide written notice to the requester as follows (Government Code § 7923.625):

- (a) During the initial 45 days, the Custodian of Records shall provide the requester with written notice of the specific basis for the determination that disclosure would

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substantially interfere with the investigation. The notice shall also include the estimated date for the disclosure.

- (a) When delay is continued after the initial 45 days, the Custodian of Records shall promptly provide the requester with written notice of the specific basis for the determination that the interest in preventing interference with an active investigation outweighs the public interest in the disclosure, and the estimated date for the disclosure. The Custodian of Records should work with the Deputy Director, Park Operations in reassessing the decision to continue withholding a recording and notify the requester every 30 days.

Recordings withheld shall be disclosed promptly when the specific basis for withholding the recording is resolved.

#### 808.7.3 REDACTION

If the Custodian of Records, in consultation with the Deputy Director, Park Operations or the authorized designee, determines that specific portions of the recording may violate the reasonable expectation of privacy of a person depicted in the recording, the Department should use redaction technology to redact portions of recordings made available for release. The redaction should not interfere with the viewer's ability to fully, completely, and accurately comprehend the events captured in the recording, and the recording should not otherwise be edited or altered (Government Code § 7923.625).

If any portions of a recording are withheld to protect the reasonable expectation of privacy of a person depicted in the recording, the Custodian of Records shall provide in writing to the requester the specific basis for the expectation of privacy and the public interest served (Government Code § 7923.625).

#### 808.7.4 RECORDINGS WITHHELD FROM PUBLIC DISCLOSURE

If the reasonable expectation of privacy of a person depicted in the recording cannot adequately be protected through redaction, and that interest outweighs the public interest in disclosure, the Department may withhold the recording from the public, except that the recording, either redacted or unredacted, shall be disclosed promptly, upon request, to any of the following (Government Code § 7923.625):

- (a) The person in the recording whose privacy is to be protected, or the person's authorized representative.
- (b) If the person is a minor, the parent or legal guardian of the person whose privacy is to be protected.
- (c) If the person whose privacy is to be protected is deceased, an heir, beneficiary, designated immediate family member, or authorized legal representative of the deceased person whose privacy is to be protected.

If the Department determines that this disclosure would substantially interfere with an active criminal or administrative investigation, the Custodian of Records shall provide the requester with



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written notice of the specific basis for the determination and the estimated date of disclosure (Government Code § 7923.625).

The Department may continue to delay release of the recording from the public for 45 days with extensions as provided in this policy (Government Code § 7923.625).

## Protected Information

### 810.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the access, transmission, release and security of protected information by members of the California Department of Parks and Recreation. This policy addresses the protected information that is used in the day-to-day operation of the Department and not the public records information covered in the Records Maintenance and Release Policy.

#### 810.1.1 DEFINITIONS

Definitions related to this policy include:

**Protected information** - Any information or data that is collected, stored or accessed by members of the California Department of Parks and Recreation and is subject to any access or release restrictions imposed by law, regulation, order or use agreement. This includes all information contained in federal, state or local law enforcement databases that is not accessible to the public.

### 810.2 POLICY

Members of the California Department of Parks and Recreation will adhere to all applicable laws, orders, regulations, use agreements and training related to the access, use, dissemination and release of protected information.

### 810.3 RESPONSIBILITIES

The Deputy Director, Park Operations shall select a member of the Department to coordinate the use of protected information.

The responsibilities of this position include, but are not limited to:

- (a) Ensuring member compliance with this policy and with requirements applicable to protected information, including requirements for the National Crime Information Center (NCIC) system, National Law Enforcement Telecommunications System (NLETS), Department of Motor Vehicle (DMV) records and California Law Enforcement Telecommunications System (CLETS).
- (b) Developing, disseminating and maintaining procedures that adopt or comply with the U.S. Department of Justice's current Criminal Justice Information Services (CJIS) Security Policy.
- (c) Developing, disseminating and maintaining any other procedures necessary to comply with any other requirements for the access, use, dissemination, release and security of protected information.
- (d) Developing procedures to ensure training and certification requirements are met.
- (e) Resolving specific questions that arise regarding authorized recipients of protected information.
- (f) Ensuring security practices and procedures are in place to comply with requirements applicable to protected information.

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##### **810.4 ACCESS TO PROTECTED INFORMATION**

Protected information shall not be accessed in violation of any law, order, regulation, user agreement, California Department of Parks and Recreation policy or training. Only those members who have completed applicable training and met any applicable requirements, such as a background check, may access protected information, and only when the member has a legitimate work-related reason for such access.

Unauthorized access, including access for other than a legitimate work-related purpose, is prohibited and may subject a member to administrative action pursuant to the Personnel Complaints Policy and/or criminal prosecution.

##### **810.4.1 PENALTIES FOR MISUSE OF RECORDS**

It is a misdemeanor to furnish, buy, receive or possess Department of Justice criminal history information without authorization by law (Penal Code § 11143).

Authorized persons or agencies violating state regulations regarding the security of Criminal Offender Record Information (CORI) maintained by the California Department of Justice may lose direct access to CORI (11 CCR 702).

##### **810.4.2 RELEASE OF CORI**

Only the persons listed below are authorized to release CORI. Each authorized person releasing CORI is responsible to ensure that each request granted appears legitimate and that the requester is an authorized recipient with a right and need to know.

- (a) Criminal Records Security Officer
- (b) District Superintendent
- (c) Full-time employees of the Property and Evidence Section or Division Office
- (d) Personnel specifically designated in writing by Division Chiefs with the concurrence of the Criminal Records Security Officer
- (e) The Department employee assigned to process Emergency Medical Technician certifications

##### **810.4.3 RELEASE OF CORI TO FIELD PERSONNEL**

Personnel shall not have access to CORI until a background investigation has been completed and approved.

CORI shall not generally be transmitted by radio, cellular phone, or through computer terminals to field personnel or vehicles except in cases where circumstances reasonably indicate that the immediate safety of the officer or the public are at significant risk. Examples of situations where the transmission of summary criminal history information would be justified include a hostage situation or an armed suspect however a routine investigation or traffic enforcement stop would not be sufficient justification.

Nothing in this procedure is intended to prohibit broadcasting warrant information concerning wanted persons.

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##### **810.5 RELEASE OR DISSEMINATION OF PROTECTED INFORMATION**

Protected information may be released only to authorized recipients who have both a right to know and a need to know.

A member who is asked to release protected information that should not be released should refer the requesting person to a supervisor or to the Records Manager for information regarding a formal request.

Unless otherwise ordered or when an investigation would be jeopardized, protected information maintained by the Department may generally be shared with authorized persons from other law enforcement agencies who are assisting in the investigation or conducting a related investigation. Any such information should be released through the Records Center to ensure proper documentation of the release (see the Records Maintenance and Release Policy).

##### **810.5.1 REVIEW OF CRIMINAL OFFENDER RECORD**

Individuals requesting to review their own California criminal history information shall be referred to the Department of Justice (Penal Code § 11121).

Individuals shall be allowed to review their arrest or conviction record on file with the Department after complying with all legal requirements regarding authority and procedures in Penal Code § 11120 through Penal Code § 11127 (Penal Code § 13321).

##### **810.5.2 TRANSMISSION GUIDELINES**

Protected information, such as restricted Criminal Justice Information (CJI), which includes Criminal History Record Information (CHRI), should not be transmitted via unencrypted radio. When circumstances reasonably indicate that the immediate safety of officers, other department members, or the public is at risk, only summary information may be transmitted.

In cases where the transmission of protected information, such as Personally Identifiable Information, is necessary to accomplish a legitimate law enforcement purpose, and utilization of an encrypted radio channel is infeasible, a MDC or department-issued cellular telephone should be utilized when practicable. If neither are available, unencrypted radio transmissions shall be subject to the following:

- Elements of protected information should be broken up into multiple transmissions, to minimally separate an individual's combined last name and any identifying number associated with the individual, from either first name or first initial.
- Additional information regarding the individual, including date of birth, home address, or physical descriptors, should be relayed in separate transmissions.

Nothing in this policy is intended to prohibit broadcasting warrant information.

##### **810.6 SECURITY OF PROTECTED INFORMATION**

The Deputy Director, Park Operations will select a member of the Department to oversee the security of protected information.

The responsibilities of this position include, but are not limited to:

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- (a) Developing and maintaining security practices, procedures and training.
- (b) Ensuring federal and state compliance with the CJIS Security Policy and the requirements of any state or local criminal history records systems.
- (c) Establishing procedures to provide for the preparation, prevention, detection, analysis and containment of security incidents including computer attacks.
- (d) Tracking, documenting and reporting all breach of security incidents to the Deputy Director, Park Operations and appropriate authorities.

#### **810.6.1 MEMBER RESPONSIBILITIES**

Members accessing or receiving protected information shall ensure the information is not accessed or received by persons who are not authorized to access or receive it. This includes leaving protected information, such as documents or computer databases, accessible to others when it is reasonably foreseeable that unauthorized access may occur (e.g., on an unattended table or desk; in or on an unattended vehicle; in an unlocked desk drawer or file cabinet; on an unattended computer terminal).

#### **810.7 TRAINING**

All members authorized to access or release protected information shall complete a training program that complies with any protected information system requirements and identifies authorized access and use of protected information, as well as its proper handling and dissemination.

##### **810.7.1 COMPUTER TERMINAL SECURITY**

Computer terminal equipment capable of providing access to automated criminal offender record information located in the Law Enforcement and Emergency Services Division Office or the Communications Center shall be secured in such a way as to preclude access by unauthorized persons.

No employee shall be authorized to operate computer terminal equipment with access to CORI until the operator has completed the appropriate training.

##### **810.7.2 DESTRUCTION OF CORI**

When any document providing CORI has served the purpose for which it was obtained, it shall be destroyed by shredding.

Each employee shall be responsible for destroying the CORI documents they receive.

##### **810.7.3 CUSTODIAN OF CRIMINAL RECORDS**

The Chief of Law Enforcement and Emergency Services Division shall be the Department's official Custodian of Criminal Records. The Custodian of Criminal Records shall be responsible for the security, storage, dissemination and destruction of criminal records, and will serve as a primary contact for the California Department of Justice for any related issues. The LEES Chief may

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appoint other department employees to the role of Custodian of Criminal Records, who will share the same responsibilities regarding criminal records.

The LEES Chief will ensure that he/she makes the appropriate applications and notifications to the California Department of Justice regarding the Department's Custodian of Criminal Record appointments, per the requirements of Penal Code § 11102.2.

This subsection is not intended to interfere with any other employee acting as a custodian of records for other statutory purposes but is narrowly tailored to address issues of criminal history records.

#### **810.8 TRAINING PROGRAM**

All personnel authorized to process or release CORI shall be required to complete a training program prescribed by the Criminal Record Security Officer. In conjunction with the Law Enforcement and Emergency Services Division, the Training Unit shall coordinate the course to provide training in the proper use, control, and dissemination of CORI.

#### **810.9 PENALTIES FOR MISUSE OF RECORDS**

Penal Code §§ 11140 and 11144 make it a misdemeanor to furnish, buy, receive, or possess Department of Justice rap sheets without authorization by a court, statute, or case law.

Title 11, California Administrative Code § 702 provides that authorized persons or agencies violating the Regulations Regarding the Security of Criminal Offender Record Information in California may lose direct access to CORI maintained by the California Department of Justice.

Divulging the content of any criminal record to anyone other than authorized personnel is a violation of Policy Manual § 340.3.7(a).

Employees who obtain, or attempt to obtain, information from the department files other than that to which they are entitled in accordance with their official duties is a violation of Policy Manual § 340.3.7(a).

#### **810.10 CALIFORNIA RELIGIOUS FREEDOM ACT**

Members shall not release personal information from any agency database for the purpose of investigation or enforcement of any program compiling data on individuals based on religious belief, practice, affiliation, national origin or ethnicity (Government Code § 8310.3).

## Computers and Digital Evidence

### 812.1 PURPOSE AND SCOPE

This policy establishes procedures for the seizure and storage of computers, personal communications devices (PCDs) digital cameras, digital recorders and other electronic devices that are capable of storing digital information; and for the preservation and storage of digital evidence. All evidence seized and/or processed pursuant to this policy shall be done so in compliance with clearly established Fourth Amendment and search and seizure provisions.

#### 812.1.1 CALIFORNIA HIGHWAY PATROL RESPONSIBILITY

The California Highway Patrol is responsible for conducting all criminal investigations involving State owned or leased computer equipment. Prior to beginning an investigation that may involve State computer equipment, first contact the CHP Computer Crimes Unit.

### 812.2 SEIZING COMPUTERS AND RELATED EVIDENCE

Computer equipment requires specialized training and handling to preserve its value as evidence. Officers should be aware of the potential to destroy information through careless or improper handling, and utilize the most knowledgeable available resources. When seizing a computer and accessories the following steps should be taken:

- (a) Photograph each item, front and back, specifically including cable connections to other items. Look for a phone line or cable to a modem for Internet access.
- (b) Do not overlook the possibility of the presence of physical evidence on and around the hardware relevant to the particular investigation such as fingerprints, biological or trace evidence, and/or documents.
- (c) If the computer is off, do not turn it on.
- (d) If the computer is on, do not shut it down normally and do not click on anything or examine any files.
  - 1. Photograph the screen, if possible, and note any programs or windows that appear to be open and running.
  - 2. Disconnect the power cable from the back of the computer box or if a portable notebook style, disconnect any power cable from the case and remove the battery).
- (e) Label each item with case number, evidence sheet number, and item number.
- (f) Handle and transport the computer and storage media (e.g., tape, discs, memory cards, flash memory, external drives) with care so that potential evidence is not lost.
- (g) Lodge all computer items in the Property Room. Do not store computers where normal room temperature and humidity is not maintained.
- (h) At minimum, officers should document the following in related reports:

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1. Where the computer was located and whether or not it was in operation.
  2. Who was using it at the time.
  3. Who claimed ownership.
  4. If it can be determined, how it was being used.
- (i) In most cases when a computer is involved in criminal acts and is in the possession of the suspect, the computer itself and all storage devices (hard drives, tape drives, and disk drives) should be seized along with all media. Accessories (printers, monitors, mouse, scanner, keyboard, cables, software and manuals) should not be seized unless as a precursor to forfeiture.

##### **812.2.1 BUSINESS OR NETWORKED COMPUTERS**

If the computer belongs to a business or is part of a network, it may not be feasible to seize the entire computer. Cases involving networks require specialized handling. Officers should contact a certified forensic computer examiner for instructions or a response to the scene. It may be possible to perform an on-site inspection, or to image the hard drive only of the involved computer. This should only be done by someone specifically trained in processing computers for evidence.

##### **812.2.2 FORENSIC EXAMINATION OF COMPUTERS**

If an examination of the contents of the computer's hard drive, or floppy disks, compact discs, or any other storage media is required, forward the following items to a computer forensic examiner:

- (a) Copy of report(s) involving the computer, including the Evidence/Property sheet.
- (b) Copy of a consent to search form signed by the computer owner or the person in possession of the computer, or a copy of a search warrant authorizing the search of the computer hard drive for evidence relating to investigation.
- (c) A listing of the items to search for (e.g., photographs, financial records, e-mail, documents).
- (d) An exact duplicate of the hard drive or disk will be made using a forensic computer and a forensic software program by someone trained in the examination of computer storage devices for evidence.

##### **812.3 SEIZING DIGITAL STORAGE MEDIA**

Digital storage media including hard drives, floppy discs, CD's, DVD's, tapes, memory cards, or flash memory devices should be seized and stored in a manner that will protect them from damage.

- (a) If the media has a write-protection tab or switch, it should be activated.
- (b) Do not review, access or open digital files prior to submission. If the information is needed for immediate investigation request the Property and Evidence Section to copy the contents to an appropriate form of storage media.



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- (c) Many kinds of storage media can be erased or damaged by magnetic fields. Keep all media away from magnetic devices, electric motors, radio transmitters or other sources of magnetic fields.
- (d) Do not leave storage media where they would be subject to excessive heat such as in a parked vehicle on a hot day.
- (e) Use plastic cases designed to protect the media, or other protective packaging, to prevent damage.

#### **812.4 SEIZING PCDS**

Personal communication devices such as cell phones, PDAs or other hand-held devices connected to any communication network must be handled with care to preserve evidence that may be on the device including messages, stored data and/or images.

- (a) Officers should not attempt to access, review or search the contents of such devices prior to examination by a forensic expert. Unsent messages can be lost, data can be inadvertently deleted and incoming messages can override stored messages.
- (b) Do not turn the device on or off. The device should be placed in a solid metal container such as a paint can or in a faraday bag, to prevent the device from sending or receiving information from its host network.
- (c) When seizing the devices, also seize the charging units and keep them plugged in to the chargers until they can be examined. If the batteries go dead all the data may be lost.

#### **812.5 DIGITAL EVIDENCE RECORDED BY OFFICERS**

Officers handling and submitting recorded and digitally stored evidence from digital cameras and audio or video recorders will comply with these procedures to ensure the integrity and admissibility of such evidence.

##### **812.5.1 COLLECTION OF DIGITAL EVIDENCE**

Once evidence is recorded it shall not be erased, deleted or altered in any way prior to submission. All photographs taken will be preserved regardless of quality, composition or relevance. Video and audio files will not be altered in any way.

##### **812.5.2 SUBMISSION OF DIGITAL MEDIA**

The following are required procedures for the submission of digital media used by cameras or other recorders:

- (a) The recording media (smart card, compact flash card or any other media) shall be brought to the Property and Evidence Section as soon as possible for submission into evidence.

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- (b) Officers are not authorized to review or copy memory cards. The evidence technicians are the only employees authorized to copy and/or distribute digital media made from the memory cards.
- (c) As soon as possible following the collection of evidence, the camera operator is to remove the memory card from their digital camera and place the card into a plastic carrier. The card and carrier are then to be placed into a zip-lock type baggie. The camera operator shall write their name and the related case number on the outside of the baggie before placing in the film drop box along with the evidence form.
- (d) District Evidence Custodians will make a copy of the memory card using appropriate storage media. Once they have verified that the images properly transferred to the storage media, the custodians will erase the memory card for re-use. The storage media will be marked as the original.
- (e) Officers requiring a copy of the digital files must request a copy on the evidence form when submitted to evidence.

#### 812.5.3 DOWNLOADING OF DIGITAL FILES

Digital information such as video or audio files recorded on devices using internal memory must be downloaded to storage media. The following procedures are to be followed:

- (a) Files should not be opened or reviewed prior to downloading and storage.
- (b) Where possible, the device should be connected to a computer and the files accessed directly from the computer directory or downloaded to a folder on the host computer for copying to the storage media.

#### 812.5.4 PRESERVATION OF DIGITAL EVIDENCE

- (a) The original digital media shall remain in evidence and shall remain unaltered.
- (b) Digital images that are enhanced to provide a better quality photograph for identification and investigative purposes must only be made from a copy of the original media.
- (c) If any enhancement is done to the copy of the original, it shall be noted in the corresponding incident report.