

Calaveras County Probation Department

Firearms Policy

1 PURPOSE AND SCOPE

This policy establishes procedures for the acquisition, use, and documentation of training in the use of firearms. The Chief Probation Officer or his or her designee shall approve all Department firearms before they are acquired and utilized by any member of this department.

1.1 LEGAL AUTHORITY TO CARRY AND USE A FIREARM

The peace officer status of probation officers is created in Penal Code § 830.5:

"The following persons are peace officers whose authority extends to any place in the state *while engaged in the performance of the duties of their respective employment and for the purpose of carrying out the primary function of their employment or as required under Sections 8597, 8598, and 8617 of the Government Code. Except as specified in this section, these peace officers may carry firearms only if authorized and under those terms and conditions specified by their employing agency:* (emphasis added)
... probation officer, or deputy probation officer"

The probation officer's use of peace officer powers is defined and limited to on-duty hours by statute, court decisions and opinions of the California Attorney General's Office. Penal Code § 830.5(a) reads in part, "Except as otherwise provided in this subdivision, the authority of these probation officers shall extend only as follows:

- (a) To conditions of parole or of probation by any person in this state on parole or probation.
- (b) To the escape of any inmate or ward from a state or local institution.
- (c) To the transportation of persons on parole or probation.
- (d) To violations of any penal provisions of law that are discovered while performing the usual or authorized duties of his or her employment.
- (e) To the rendering of mutual aid to any other law enforcement agency.

Probation officers' authority to carry and use firearms on-duty shall be consistent with these provisions of the Penal Code and shall be limited by the terms and conditions specified by this policy. Probation officers authorized to carry firearms on duty are required, pursuant to 830.5(d) of the Penal Code, to meet the training requirements of 832 P.C. and to qualify with the firearm at least quarterly. Nothing in this policy shall be considered or construed as conferring on the probation officer authority beyond that granted by the Penal Code. Probation officers authorized to carry firearms shall comply with the requirements of the Penal Code and these policies.

Under the provisions of Section 830.5 of the Penal Code, a probation officer holds peace officer "status" at all times and may therefore carry a personal, concealed firearm during off-duty hours without being in violation of Section 25400 and 25850 of the Penal Code. The "authority" to act as a peace officer however, only extends to on-duty hours while the officer is engaged in the performance of his/her duties. A probation officer who carries or uses any firearm off-duty therefore does so as a private citizen.

Any consequences of liability of any kind arising out of any act or incident involving the use or carrying of any firearm during off-duty hours shall be the sole, personal responsibility of the officer. The County assumes no liability or responsibility for such, off-duty use of a

firearm by an officer, and any act or incident shall not be deemed an official or permitted act or incident or the exercise of peace officer "authority."

Any misuse of a firearm off-duty by an officer may subject that officer to disciplinary action up to and including termination, in addition to any civil or criminal action to which the officer may be subjected.

1.2 AUTHORIZATION TO CARRY A FIREARM ON DUTY

The Chief Probation Officer reserves the right to order an officer to be armed.

Probation officers authorized to carry a firearm are encouraged to carry their weapon at all times while on duty. In any event, armed personnel should have their firearms and all authorized safety equipment readily available to them while on duty.

The Arming Authorization shall be in writing and shall be signed by the Chief Probation Officer. No probation officer shall carry a firearm on his/her person at any time or have a firearm in his/her possession in the office or any other job location or in his/her vehicle without the prior written authorization of the Chief Probation Officer obtained pursuant to these policies and procedures.

The signed Arming Authorization form shall be kept in the probation officer's personnel file with copies to the Departmental Training Manager and Range Administrator.

The authorization to carry a firearm shall be subject to ongoing periodic review by the Chief Probation Officer.

The Chief Probation Officer may approve or deny any request by a probation officer to be armed on a case-by-case basis subject to any terms and limitations deemed appropriate within the sole discretion of the Chief Probation Officer.

The Chief Probation Officer may, at any time, for any reason or without cause, revoke the authority of any probation officer to carry a firearm on duty. The probation officer shall immediately be informed of the revocation and, if necessary, transferred to an assignment not requiring arming. A copy of the written revocation shall be delivered to the officer within five (5) working days, and a copy shall be placed in the probation officer's personnel file.

2 AUTHORIZED WEAPONS

No firearms will be carried that have not been thoroughly inspected by the Rangemaster during a regularly scheduled range date. Except in an emergency or as directed by a supervisor, no firearm shall be carried by a member who has not qualified with that weapon at an authorized department range.

All other weapons, including but not limited to, edged weapons, chemical or electronic weapons, impact weapons or any weapon prohibited or restricted by law or that is not covered elsewhere by department policy, may not be carried by personnel in the performance of their official duty without the express written authorization of the Chief Probation Officer. This exclusion does not apply to the carrying of a single folding pocketknife that is not otherwise prohibited by law.

2.1 DUTY WEAPONS

The department issued/authorized handgun is the Glock Model 22/23 .40 SW.

2.2 CARRYING THE FIREARM

- (a) Probation officers authorized to carry firearms shall only carry firearms that have been issued by the department and with which the probation officer has qualified pursuant to these policies.
- (b) The authorized and approved firearm will only be carried while the probation officer is on duty. The firearm will be secured in the department gun safe while the officer is off duty.
- (c) The authorized and approved firearm must be encased in a holster approved by the Rangemaster.
- (d) The firearm will be fully loaded with a round chambered.
- (e) Whenever an armed probation officer is in the field (i.e., on a school campus, conducting home visits, etc.) the officer shall carry the firearm in an approved level III retention holster.
- (f) Any probation officer authorized to carry a firearm shall have in his/her possession, whenever carrying a firearm, his/her department issued badge and identification card. The badge should be displayed in close proximity to the weapon.
- (g) Probation officers authorized to carry firearms shall wear department authorized body armor at all times while on duty and engaged in out of office field activities, unless otherwise authorized by the Chief Probation Officer.
- (h) Probation Officers authorized to carry firearms shall carry a minimum of one less-than-lethal-force option (i.e., O.C. spray and/or ASP baton) while on duty and engaged in out-of-office field activities.
- (i) If an armed officer is performing administrative duties (i.e., office work, Court appearance, etc.) the officer may carry the firearm in any approved holster. If the holster is less than a level III retention holster and the officer is in view of the public, the firearm should be concealed.
- (j) Pursuant to protocols set by the Superior Court of California, County of Calaveras, non-uniformed peace officers are required to inform the bailiff upon entering the courtroom that they are an armed peace officer. No peace officer is permitted to enter armed when attending court on personal business (e.g. traffic ticket, divorce, etc.) and must leave their firearm outside the courthouse while attending non-official court business.

2.3 AMMUNITION

Officers shall carry only department-authorized ammunition. Officers shall be issued fresh duty ammunition in the specified quantity for all department issued firearms during the officer's first scheduled qualification each year. Officers carrying personally owned authorized firearms of a caliber differing from department issued firearms shall be responsible for obtaining fresh duty ammunition in accordance with the above at their own expense. Replacements for unserviceable or depleted ammunition issued by the Department shall be dispensed by the Rangemaster when needed in accordance with established policy.

2.4 RESTRICTIONS ON CARRYING FIREARMS

Probation officers who have been authorized to be armed are prohibited from carrying or using firearms under the following conditions:

- (a) Weapons shall not be carried by any officer who has consumed any alcoholic beverage, or taken any drugs that would tend to adversely affect the officer's senses or judgment.
- (b) While injured or in a physical condition causing inability to utilize a firearm effectively or properly, i.e., broken arm, eye injury causing impaired vision, etc.
- (c) While on disciplinary or investigative suspension.

- (d) While on leave of absence without pay, or other period of unpaid absence from the Department or while on Workers' Compensation status.
- (e) When authorization to carry a firearm has been revoked.
- (f) The officer has been directed by the Rangemaster or a superior officer to cease carrying a firearm.
 1. Any officer directed to cease carrying a firearm shall immediately surrender his/her firearm and shall immediately cease carrying any firearm on-duty.
 2. If a suspension of authority to carry a firearm has been made, the person ordering the suspension shall submit a written report, within three (3) working days, to the Chief Probation Officer, indicating the circumstances that led to the suspension. A copy of the report shall be made available or mailed to the probation officer within one (1) workday following submission of the report.
 3. A written request for a review of any suspension may be made by the officer to the Chief Probation Officer within ten (10) working days of the officer's receipt of notification of suspension of authority to carry a firearm. The written request shall clearly state the reason(s) the authorization should be reinstated or specific objections to the decision. The Chief Probation Officer shall then make a determination whether or not to revoke the authorization. The Chief Probation Officer's decision is final and shall not be or become the basis for any grievance.

2.5 STOLEN OR LOST FIREARMS

- (a) A probation officer shall file a report with the appropriate law enforcement agency immediately upon discovery that his/her on-duty firearm is missing.
- (b) A probation officer shall also immediately report a lost or stolen firearm to his/her supervisor, who will notify the Chief Probation Officer via the chain of command.
- (c) The probation officer will file a written report regarding the matter with their supervisor by the end of the assigned shift. The written report shall be submitted to the Chief Probation Officer through the chain of command.
- (d) The probation officer may be required to reimburse the Department in the event that a Department-owned firearm and related equipment is lost through negligence of the probation officer as per County policy. This requirement may be imposed in addition to any disciplinary action imposed by the Department for the officer's negligence.
- (e) Arrangements may be made for the temporary or permanent issuance of another firearm if the Chief Probation Officer or Division Director authorizes such issuance. The officer shall qualify with the newly issued firearm before authorization to carry the firearm on-duty shall become effective.

3 SAFE HANDLING OF FIREARMS

The intent of this policy is to promote proper firearm safety on and off duty. Employees shall maintain the highest level of safety when handling firearms and shall consider the following:

3.1 SAFETY CONSIDERATIONS

- (a) Every firearm handled shall be treated as a loaded firearm. Officers shall not unnecessarily display or handle any firearm.
- (b) Any unholstered firearm that is brought into a Probation Department facility shall first be unloaded.
- (c) Officers shall be governed by all rules and regulations pertaining to the use of the range and shall obey all orders issued by the Rangemaster. Officers shall not dry fire or practice quick draws except under Rangemaster supervision.
- (d) The cleaning of a firearm in an office-setting, vehicle, or in the field is prohibited except when the firearm has been fouled by a foreign substance that might render

it inoperable. In those instances, all safety precautions must be taken when cleaning the firearm.

(e) All firearms equipped with safety devices shall be placed in a "safe" condition except when use is imminent.

(f) Any firearm authorized by the department that is found by the officer to be malfunctioning or needing service shall not be carried and shall be promptly presented to the department or Rangemaster for inspection. Any firearm determined to be in need of service or repair during an inspection by the department Rangemaster, will be immediately removed from service. If the firearm is the officer's primary duty weapon, a replacement firearm will be issued to the officer until the duty weapon is again rendered serviceable.

3.2 STORAGE OF FIREARMS WHILE ON-DUTY

Firearm security is the responsibility of the probation officer to whom the firearm is assigned. Probation officers authorized to carry firearms are charged with the responsibility to observe and practice the following storage regulations:

(a) When not being carried during duty hours, the firearm and ammunition shall be stored in a secure and safe place that is not readily accessible to unauthorized persons. The firearm shall not be stored in a place where it is visible to anyone. If possible, the firearm should remain in the holster when being stored.

(b) Firearms are not to be stored overnight at any time in a County vehicle or private vehicle.

(c) If an on-duty, armed officer does not wish to carry his/her firearm into a residence or public building, he/she shall take the following precautions:

1. The firearm may be stored temporarily either in a locked vehicle trunk or vehicle glove compartment. If the firearm is stored in either, the automobile shall be locked.
2. The probation officer shall exercise caution so that the public does not observe placement of the firearm into storage in the automobile.

(d) Under no circumstances may a firearm, ammunition, and/or other item, which threatens the security of a correctional facility, be brought into such facility, or be left in any unattended/unlocked vehicle on institutional grounds. Follow the procedures of the correctional facility as to safe storage of these items.

(e) Prior to conducting an interview in a probation department interview room, the probation officer shall store the firearm in a secure and safe place that is not accessible to unauthorized persons.

3.3 STORAGE OF FIREARMS WHILE OFF-DUTY

Pursuant to section 2.2(b) of this policy, probation officers authorized to carry firearms will not carry their Department-assigned firearms off-duty. At the end of each duty shift, probation officers will secure their firearms in the Department gun safe.

4 FIREARMS QUALIFICATIONS

Any probation officer authorized to carry and use a firearm must be certified as currently qualified to do so by the Rangemaster.

(a) The minimum qualifying score for each type of firearm shall be established by the Rangemaster and approved by the Chief Probation Officer.

(b) Probation officers shall comply with the Rangemaster's policies and directions.

(c) The Training Manager shall administer a firearm qualification program in liaison with the Rangemaster that ensures competency among all probation officers authorized to

carry firearms.

(d) Each probation officer authorized to carry a firearm shall qualify quarterly.

(e) Any probation officer who fails to qualify shall have his/her authorization to carry a firearm suspended. This suspension will remain in effect until the individual receives additional training and qualifies. Continued failure to qualify will result in revocation of the authorization to carry a firearm.

(f) Probation officers must qualify with their Department-issued firearm. Officers not qualified with a particular weapon are not authorized to carry that weapon until they become qualified with it.

(g) Qualification shall be during normal working hours. Request for qualification outside of regular working hours may be approved by the Probation Unit Supervisor and scheduled with the Rangemaster.

(h) The Training Manager and/or the Rangemaster shall prepare and submit a quarterly firearms qualification report to the Chief Probation Officer.

(i) A probation officer may, with the Probation Unit Supervisor's approval, be authorized additional on-duty hours for practice to improve proficiency in the use of a firearm. Arrangements will be made for additional firearms practice under the supervision of the Rangemaster.

4.1 REQUIRED TRAINING

A probation officer must satisfactorily complete all training and qualification pursuant to this policy prior to being authorized to carry a firearm. Required training includes:

(a) Defensive Tactics training

(b) Cardiopulmonary Resuscitation and First Aid certification

(c) A course on the Departmental policies concerning the carrying of firearms by probation officers.

(d) The ethical and moral considerations of the use of firearms and deadly physical force.

(e) Courses concerning the legal considerations for the carrying and use of firearms, including:

1. The laws governing arrests and searches incident to arrests
2. The laws of self-defense and the use of force by peace officers
3. The civil liabilities of probation officers

The Departmental Training Manager shall monitor all legislative and policy changes relating to the use of firearms by peace officers and shall provide necessary updated training in a timely manner.

The Departmental Training Manager shall maintain the training records of all probation Officers authorized to carry firearms and shall promptly notify the Chief Probation Officer and the appropriate Probation Unit Supervisor when any such probation officer is not in compliance with the Department's training requirements.

4.2 OTHER REQUIREMENTS

Probation officers must also be able to provide a practical demonstration of at least the following:

- firearm safety
- shooting proficiency during scenario-based training
- weapon retention
- all less than lethal self-defense options for which the officer is certified
- the care and cleaning of an authorized weapon

5 RANGE PERSONNEL

The Chief Probation Officer shall serve as the Range Administrator. The Training Manager shall maintain training records of armed personnel and process arming requests. The Probation Department will utilize the Calaveras County Sheriff's Department Rangemaster to facilitate the quarterly qualifications of armed staff or other training related to arming.

Rangemasters must be qualified through an approved Rangemaster School, e.g. Federal Bureau of Investigation, Gunsite Training Center, Inc., or State Department of Justice.

5.1 RANGEMASTER RESPONSIBILITIES

The range will be under the exclusive control of the Rangemaster. All members attending will follow the directions of the Rangemaster. The Rangemaster will maintain a roster of all members attending the range and will submit the roster to the Range Administrator and Training Manager after each range date. Failure of any officer to sign in and out with the Rangemaster may result in non-qualification.

The range shall remain operational and accessible to Department members during hours established by the Department.

Rangemasters certified as armorers for the department-issued weapon have the responsibility of making periodic inspection, at least once a year, of all duty weapons carried by officers of this department to verify proper operation. The Rangemaster has the authority to deem any privately owned weapon unfit for service. The officer will be responsible for all repairs to his or her personal weapon and it will not be returned to service until inspected by the Rangemaster.

6 MAINTENANCE AND REPAIR

Assigned, Department-owned firearms shall be maintained in a clean, serviceable condition.

6.1 REPAIR OR MODIFICATIONS OF DUTY WEAPONS

The Rangemaster/Armorer shall be the only person authorized to repair or modify any department-owned weapon. All repairs and/or modifications of department-issued weapons not performed by the Rangemaster must be approved in advance by the Rangemaster and accomplished by a Department-approved gunsmith.

7 FLYING WHILE ARMED

The Transportation Security Administration (TSA) has imposed rules governing law enforcement officers flying armed on commercial aircraft. The following requirements apply to personnel who intend to be armed while flying on a commercial air carrier or flights where screening is conducted (49 CFR 1544.219):

- (a) Officers wishing to fly while armed must be flying in an official capacity, not for vacation or pleasure purposes.
- (b) Officers must carry their Department identification card which must contain a full-face picture, the officer's signature and the signature of the Chief Probation Officer or the official seal of the Department and must present this identification to airline officials when requested. The officer should also carry the standard photo identification needed for passenger screening by airline and TSA officials (e.g., driver's license, passport).
- (c) The Calaveras County Probation Department must submit a National Law Enforcement Telecommunications System (NLETS) message prior to the officer's travel. If approved, TSA will send the Calaveras County Probation Department an

NLETS message containing a unique alphanumeric identifier. The officer must present the message to airport personnel as authorization to travel while armed on the day of travel.

(d) An official letter signed by the Chief Probation Officer authorizing armed travel must accompany the officer. The letter must outline the officer's need to fly armed, must detail his/her itinerary, and should include that the officer has completed the mandatory TSA training for law enforcement officer flying while armed.

(e) Officers must have completed the mandated TSA security training covering officers flying while armed. The training shall be given by the department-appointed instructor.

(f) It is the officer's responsibility to notify the air carrier in advance of the intended armed travel. This notification can be accomplished by early check-in at the carrier's check-in counter.

(g) Discretion must be used to avoid alarming passengers or crew by displaying a firearm. The officers must keep the firearm concealed on his/her person at all times. Firearms are not permitted in carry-on luggage and may not be stored in an overhead compartment.

(h) Officers should not surrender their firearm but should try to resolve any problems through the flight captain, ground security manager or other management representative of the air carrier.

(i) Officers shall not consume alcoholic beverages while aboard an aircraft, or within eight hours prior to boarding an aircraft.

8 CARRYING FIREARMS OUT OF STATE

Qualified active full-time officers and qualified retired officers (see Policy Manual § 220) of this department are authorized to carry a concealed firearm in all other states subject to the following conditions (18 United States Code 926B and C):

(a) The officer shall carry his/her Department identification card whenever carrying such weapon.

(b) Qualified retired officers shall also carry certification of having met firearms qualification within the past 12 months.

(c) The officer is not the subject of any current disciplinary action.

(d) The officer may not be under the influence of alcohol or any other intoxicating or hallucinatory drug.

(e) The officer will remain subject to this and all other Department policies (including qualifying and training).

Officers are cautioned that individual states may enact local regulations that permit private persons or entities to prohibit or restrict the possession of concealed firearms on their property, or that prohibit or restrict the possession of firearms on any state or local government property, installation, building, base or park. Federal authority may not shield an officer from arrest and prosecution in such locally restricted areas.

Visiting active and retired peace officers from other states are subject to all requirements set forth in 18 United States Code 926B and C.