

Butte County

District Attorney's Office

Policy Manual

11/1/2022 Edition



**To do Justice, as no one is above the Law,
nor beneath its protection.**



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District Attorney

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Introduction

“Safeguarding the rights of others is the most noble and beautiful end of a human being.”

-Kahlil Gibran, *“The Voice of the Poet”*

“The [prosecutor] is not the representative of an ordinary party to a controversy, but of a sovereignty whose obligation to govern impartially is as compelling as its obligation to govern at all; and whose interest, therefore in a criminal prosecution is not that it shall win a case, but that justice shall be done. As such he [or she] is in a peculiar and very definite sense the servant of the law, the twofold aim of which is that guilt shall not escape or innocence suffer. He [or she] may prosecute with earnestness and vigor, indeed, [the prosecutor] should do so. But, while the [prosecutor] may strike hard blows, he [or she] is not a liberty to strike foul ones. It is as much [the prosecutor’s] duty to refrain from improper methods calculated to produce a wrongful conviction as it is to use every legitimate means to bring about a just one.” (Berger v. United States (1935) 295 U.S. 78, 88.)

A prosecutor’s job is to seek the truth. This moral and ethical obligation serves to protect the vulnerable, punish the guilty and ensure justice is done. The policies outlined in this manual are designed to accomplish the mission of the Butte County District Attorney, honor the prosecutor’s truth-seeking function and “to do justice, as no one is above the law, nor beneath its protection.”

Overview

“Policies are many, Principles are few, Policies will change, Principles never do.”

-John Maxwell

Attorneys will review the policy manual and complete a signed “acknowledgment and acceptance” statement. The “acknowledgment and acceptance” form appears at the end of this document. A signed copy of the “acknowledgment and acceptance” form will be kept with the attorney’s personnel file.

Violations of Butte County District Attorney policy (aka department rules) are grounds for discipline up to and including termination. (Butte County Personnel Rule 2.54.) The BCDA policy rules are an addition to and not a substitute or replacement for the Butte County Personnel Rules.

Comments, suggestions, or improvements to the policies are encouraged. Please feel free to provide your comments to the DA, CDDA, or SDDAs.

In this manual the following abbreviations appear:

BCDA	Butte County District Attorney
CDDA	Chief Deputy District Attorney
DA	District Attorney
DDA	Deputy District Attorney
SDDA	Supervising Deputy District Attorney

CHAPTER 1

POLICY EXCEPTIONS

No set of policies can cover every eventuality that may arise. Policy is not a substitute for the exercise of proper prosecutorial discretion, good judgment, common sense and professionalism. Proper prosecutorial discretion will occasionally require departing from policy.

1.1. APPROVAL FOR POLICY EXCEPTIONS

When a prosecutor determines an exception or departure from policy is warranted, the attorney must seek the approval of the DA, CDDA, or his/her SDDA prior to any departure from policy. Some policy exceptions can be approved by only the DA or CDDA. If a policy exception requires the approval of the DA or CDDA, it will be specifically noted in this manual. Unless otherwise noted, policy exceptions can be approved by the DA, CDDA, or a SDDA. If a SDDA is the assigned case prosecutor seeking a policy exception, the SDDA must seek the approval of the DA or CDDA prior to the departure from policy.

1.2. POLICY DEPARTURES

When extenuating and unexpected circumstances force a prosecutor to depart from policy without seeking prior approval, the prosecutor must promptly inform his or her supervisor. Furthermore, the prosecutor must document the reasons and circumstances surrounding the policy departure in the file docket at or promptly after the departure. If no file docket is available, the policy departure can be documented via email to the attorney's supervisor.

1.3. DOCUMENTATION OF POLICY EXCEPTIONS

When an exception or departure from policy is authorized, the prosecutor must specifically note who authorized the exception and document, in detail, why. This explanation, notation, and documentation will be on the file docket or a file memo. If a file memo is generated, the prosecutor will note the existence of the memo on the docket and ensure the memo is saved within the file. In the absence of file docket documentation or file memo documentation, it will be assumed the attorney did not obtain approval for a policy deviation.

CHAPTER 2

PROFESSIONAL CONDUCT POLICIES

*“He who fights monsters should look to it that he himself does not become a monster.
And if you gaze long enough into the abyss, the abyss also gazes at you.”*

-Friedrich Nietzsche

1. Attorneys will abide by both the U.S. and California constitutions and laws.
2. Attorneys will promote and demonstrate courtesy and respect to the courts, judicial officers and court staff.
3. Attorneys will comply with the California State Bar Rules and California Rules of Court.
4. Attorneys will comply with the Butte County Personnel Rules.
5. Attorneys will read the California District Attorneys' "Professionalism" manual. Each attorney will complete a declaration stating they have read CDAA's Professionalism manual and provide a copy to BCDA's human resources office representative.
6. Attorneys will employ only means consistent with truth.
7. Attorneys will treat victims, witnesses, law enforcement officers, opposing attorneys, the public, and their fellow employees with courtesy and respect.
8. Attorneys will not accept any bribe, gift, gratuity or any item of value other than their county compensation for the performance of their duties.
9. Attorneys will immediately report to the DA or CDDA – in writing - any bribe, gift, gratuity or any item of value suggested, offered or received - directly or indirectly - by a member of the defense bar, a victim or witness, a defendant, a suspect or by a family member of a defendant, suspect, victim or witness. The phrase directly or indirectly includes, but is not limited to any bribe, gift, gratuity, conduct or item of value suggested, offered or received by members of the attorney's family.
10. Attorneys shall not – directly or indirectly - make any attempt, suggestion or plan to seek or obtain a bribe, gift, gratuity or any item, thing or conduct of value by a member of the defense bar, law enforcement, victim or witness, a defendant, suspect or by a family member of the defense bar, a victim or witness, defendant or suspect.

11. Attorneys will not misuse their badge or work identification. Misuse includes, but is not limited to, any suggestion or implication the attorney is a peace officer, any attempt to intimidate, gain real or perceived personal advantage or seek preferential treatment. The attorney's badge or work identification is to be displayed solely for professional purposes.
12. Office letterhead is to be used only for official business. Attorneys may not use office letterhead for letters of recommendation, commendation or praise without express approval by the DA or CDDA.
13. Attorneys will not accept a request by an outside group, organization or business to speak on behalf of BCDA or regarding BCDA without express approval by the DA or CDDA.
14. Attorneys will not submit for publication any item, article, manuscript, book or treatise, editorial or letter to the editor which identifies the author as a BCDA employee without the express written approval of the DA or CDDA.
15. Attorneys will not obtain any employment outside of BCDA without express written approval by the DA. Approval may be rescinded with or without cause.
16. Attorneys will not provide legal representation, legal advice or pro bono legal work to any party other than the People without the express written approval by the DA. Approval may be rescinded with or without cause.
17. Attorneys shall not knowingly maintain a personal association or connection with individuals who are under criminal investigation, who have been charged with a crime or have a reputation in the community for criminal activity.
18. Attorneys must notify the DA or CDDA immediately if the attorney is the victim or witness to a crime or when a family member or close personal associate is the victim or witness to a crime.
19. Attorneys must notify the DA or CDDA immediately if an attorney's family member or close personal associate is the subject of a criminal investigation, subject of a request for complaint, or a defendant in a criminal action.
20. Attorneys must immediately notify – in writing – the DA or CDDA of any negative contact with law enforcement, arrest, citation or criminal charge. Negative contact also includes, but is not limited to, any contact where the attorney is a potential target, subject or suspect of an investigation, inquiry or similar event.
21. Attorneys must promptly notify their supervisor when they are accused either formally or informally of any form of prosecutorial misconduct, abuse or retaliatory prosecution.

22. Attorneys must promptly notify their supervisor when they become aware of a complaint to the state bar regarding the attorney's conduct.
23. Attorneys must promptly report any request for sanctions involving the prosecutor and/or BCDA or granted sanctions involving the prosecutor and/or BCDA to their supervisor.
24. Attorneys have access to a wide range of confidential information which can include, but is not limited to, rap sheets, police reports and recordings, probation reports, search warrants, investigative information, juvenile proceedings, grand jury activity and Evidence Code section 1040 and 1041 material.¹ Attorneys shall not knowingly disclose or cause to be disclosed confidential information except in the normal course of the attorney's work-related duties. Furthermore, an attorney shall not use his or her position in the District Attorney's Office to obtain access to confidential information absent a valid case specific reason to access the confidential information.
25. The Butte County District Attorney strongly condemns any form of racism, bigotry, or prejudice and is committed to ending any inequity, bigotry or racism as it demeans, degrades and undermines the justice system. To accomplish this objective and ensure Equal Protection under the Law, attorneys are barred from expressing any opinion or using any symbol which appears to support any racist or bigoted belief or appears to endorse, associate or provide support to any racist or bigoted group or organization.² Expressions of racist or bigoted opinions or support for, endorsement of, or association with racist or bigoted organizations, is grossly inconsistent with the mission of this office and will not be tolerated.
26. Public or private social media comments, posts, images and associations can bring discredit, disrepute or embarrassment to an organization.

"Social media" is broadly defined, but not limited to, any blog, wikis, microblog, message board, chat room, electronic newsletter, online forum, social networking site or any other site, service or method which permits users to create, share or comment on information, images or topics with others.

Communication includes but is not limited to any post, material, comment, image, opinion or remark made via social media.

- The core function of an individual prosecutor is to exercise solid judgment. Attorneys are required to use good judgment in any social media communication. Attorneys are expected to carefully consider and be fully aware of the impact, ramifications and potential perceptions of the attorney's social media communications may have on the attorney's image and the image of the Butte County District Attorney's Office.

¹ As used in this section confidential information includes any information that is not a matter of public record.

² Expression includes any form of social media.

- Attorneys are required to ensure their social media communications are consistent with the core organizational function of the Butte County District Attorney’s Office, which is to ensure justice is done in a fair, impartial and professional manner. It is critical for any prosecutorial agency to develop and maintain the trust and respect of the community and prosecutors occupy a trusted position in the community. Any communication that potentially erodes the public trust, respect or confidence in the professionalism of the Butte County District Attorney’s Office undermines its core function.
- Attorneys should expect that, even with significant personal privacy restrictions, all communications made via social media by the attorney could easily be released, copied or made public via third parties. Attorneys are responsible for all communication made by the attorney on social media, even if the comments are not visible, available or accessible to the general public. Any communication posted or shared online can be displayed beyond the specific individual, individuals or online community where it was originally posted. Therefore, attorneys must assume any social media communication by the attorney has the potential to be widely available.
- Attorneys should expect that even where the attorney does not expressly state, post or imply where they are employed, any and all communication by the attorney made via social media may still bring discredit, disrepute or embarrassment to the Butte County District Attorney’s Office.
- Attorneys are required when communicating via social media to respect all involved in the criminal justice system including those in violation of the law and to display a fair-minded attitude toward the public, victims, witnesses and suspects.
- Confidential information must not be communicated via social media.
- Any logo, symbol or image of the Butte County District Attorney’s Office cannot be displayed on an attorney’s personal social media account or displayed on social media communications.
- Examples of prohibited social medial conduct include, but are not limited to, posting commentary, content, or images which are defamatory, pornographic, proprietary, harassing, libelous, threatening or could create a hostile work environment.

27. The “Attorney Performance Evaluation” details the expected professional obligations and standards for prosecutors.³

³ See attached “Attorney Performance Evaluation.”

28. An attorney must notify their supervisor or the CDDA or DA when he or she becomes aware of any violation or possible violation of BCDA's professional conduct policies by another attorney.

CHAPTER 3

REVIEW OF REQUESTS FOR COMPLAINT

“Cowardice asks the question – is it safe. Expediency asks the question is it politic. Vanity asks the question is it popular. But conscience asks the question is it right. And there comes a time when one must take a position that is neither safe, nor politic, nor popular, but one must take it because it is right.”

-Dr. Martin Luther King

The decision to charge or decline criminal charges is one of the most important and significant decisions a prosecutor can make. The decision impacts the victim, the victim’s family, the suspect, the suspect’s family, law enforcement, the courts and the public. Improper charging or declination decisions can result in a miscarriage of justice.

Proper charging decisions are essential to public safety, confidence in the justice system and effective working relationships with the court, law enforcement and the defense bar. Proper charging decisions are the hallmark of a professional prosecutor.

Proper charging decisions require a thorough, complete and comprehensive review of and pursuit of all reasonably available, relevant and obtainable evidence and applicable law. The quality of this decision-making process determines the character and nature of our system of justice.

3.1. BASIC CHARGING CRITERIA

The following requirements must be satisfied for an attorney to file charges.

1. Legally sufficient and admissible evidence exist to satisfy all elements of a charge and any enhancements and demonstrate the identity of the perpetrator.
2. Based on a complete investigation and a review of all readily available relevant facts, law and affirmative defenses, the filing attorney is satisfied the evidence would demonstrate to an unanimous jury the defendant is guilty beyond a reasonable doubt of the charged crime.

3.2. IMPROPER CHARGING CONSIDERATIONS

The factors listed below are examples of improper charging considerations:

1. The race, color, religion, ancestry, national origin, sex, sexual orientation, occupation, economic class, political association or position of the victim, witness, or suspect.⁴
2. A mere request by law enforcement, a citizen, or a public official to charge a suspect.

⁴ This policy does not apply when evaluating hate crimes or hate-motivated crimes.

3. Public or media pressure to charge or not charge a suspect.

3.3. CHARGE SELECTION

When the evidence supports filing charges, multiple factors must be considered to determine the appropriate charge including:

1. Public safety.
2. The level and degree of harm to the victim, victims or community.
3. The vulnerability of the victim or victims or any position of trust held by the defendant.
4. Defendant's prior record. The nature, degree and frequency of the defendant's prior convictions, arrests and probation / parole / mandatory supervision or post-release community supervision violations.
5. Nature and manner of the offense. For example, did the defendant display criminal sophistication, predatory conduct or extensive planning?
6. Presence or absence of uncharged criminal conduct.
7. Presence or absence of criminal associations, gang ties or evidence of organized criminal activity.

The reviewing prosecutor is responsible for selecting the charge or charges that accurately reflect the **gravamen of the offense** and provide the most appropriate sentence. In selecting a charge, any attempt to file a greater charge in order to leverage a plea to a lesser charge is an unacceptable misuse of the charging process. This office has a long tradition of seeking to "file tight." Criminal case filing is not a law school exercise to seek every possible crime to charge the defendant.

When criminal conduct may be punished under different statutes that provide different penalties, the filing prosecutor should consider the following questions:

1. Which charge adequately and fully describes the conduct?
2. Which charge provides the most appropriate penalty based on the nature of the conduct, the harm to the victim and the defendant's prior criminal record?
3. What is the case law and legislative intent?
4. Do specific evidentiary factors make one charge more advantageous for the prosecution?

3.4. CASE REVIEW PRIORITIES

When reviewing requests for complaints, priority is given to:

1. In-custody suspects.
2. Suspects who have been bailed or cited to appear.
3. Violent felonies.
4. Serious Felonies.
5. Crimes against children that do not qualify as serious or violent felonies.
6. Domestic violence and sexual assault cases that do not qualify as serious or violent felonies.
7. Misdemeanor cases involving deaths.
8. Driving under the influence cases.
9. Fish and Wildlife cases.

3.5. DEADLINES FOR CASE CHARGING REVIEWS

Absent exceptional circumstances and approval by the DA or CDDA, the assigned reviewing prosecutor is expected to review all PAR (pending attorney review) cases and make a filing decision within 90 days of the case being received by BCDA.

All PFI (pending further information) cases are to be reviewed within 30 days of the receipt of the requested additional information.

All cases submitted for review during the previous calendar year must be filed or declined by March 31st.

3.6. FOLLOW-UP INVESTIGATION

When a case needs additional information or supporting material, which may be reasonably located, the reviewing prosecutor will request follow-up investigation, material or testing. Any requested follow-up must be listed on the “Decision + Follow-Up Request” form. Follow-up requests must be communicated in a polite, professional, clear and succinct manner. Clear explanations outlining why specific follow-up is requested is required. Finally, the “Decision + Follow-Up Request” form must include a deadline.⁵

⁵ Decision + Follow Up Request form attached.

CHAPTER 4

FILING OR DECLINATION

“We can lick gravity, but sometimes the paperwork is overwhelming.”

-Wernher von Braun

4.1. FOLLOW-UP INVESTIGATION

When a case is filed, but needs additional information or supporting material, follow-up requests are to follow the above “Follow-up Investigation” policy.

The filing prosecutor is also required to promptly seek and aggressively pursue any Evidence Code §§1101(b), 1108 or 1109 evidence at or before the time of filing. This review may include, but is not limited to rap sheets, BCDA records, prior probation reports, prior police reports, medical records, family law files and Children’s Services Division records.

Prior criminal law violations of material victims/witnesses must be explored for any *Brady* disclosures.

4.2. FILING: “WOBBLER” DECISION

See charge selection in Review of Request for Complaint chapter.

4.3. DECLINING TO FILE

If a case or requested charge is declined, the reviewing attorney must specifically detail the reasons for the decision not to file on the BCDA “Decision + Follow-Up Request” form. If a felony charge is requested and a misdemeanor is filed, the reviewing attorney must specifically detail the reasons for the decision to file a misdemeanor on the BCDA “Decision and Follow-Up Request” form.⁶

The specific legal and/or factual basis for the decision not to file must be clear, complete and professionally expressed on the “Decision + Follow-Up Request” form. This statement serves two primary purposes. First, it serves as the documentation of the attorney’s decision-making process. Second, it serves to communicate with, and in some instances, educate the investigating officer(s).

The declination must also utilize the codes from the DOJ 8715 form for each declined charge. The applicable codes appear on the “INSTRUCTIONS AND CODE EXPLANATIONS” of the 8715 form, under the “prosecution” section, and include various reasons for declination of a case.⁷

A declination of the case as a result of a referral for a violation of probation should note that a “1203.2 PC – In Lieu of Filing” decision was made.

⁶ Decision + Follow-Up Request form.

⁷ DOJ JUS8712/8715A form – INSTRUCTIONS AND CODE EXPLANATIONS.

4.4. SUBPOENA LIST AND SDT

When a felony case is filed, the filing prosecutor is required to prepare a subpoena list for preliminary hearing. All witnesses necessary for a holding order must be included on the subpoena list.

When completing any subpoena list – for trial, preliminary hearing or other hearing – the attorney must do the following:

1. If the witness is employed by a public agency, include the name of the witness' employer.
2. If the witness is a non-law enforcement witness, include a DOB. If the witness' name and contact info is not readily available on the face sheet of the police report or if the reports are voluminous, indicate for the support staff where the contact information can be readily found – which report and page number.
3. If the witness is an expert, include the expert's report number or other identifying information. For example, if the witness is a medical doctor note the patient's name and date of the treatment.
4. Indicate if the witness needs to be "personally served," otherwise the witness will be subpoenaed by mail.
5. If the witness is a minor, this must be noted on the subpoena sheet. If the minor witness is over 12, both the witness and a parent / guardian must be subpoenaed. If the minor witness is 12 or under only the parent / guardian is subpoenaed and ordered to bring the minor to court.

The filing prosecutor is expected to subpoena any potentially relevant documents or records from third parties at or promptly after the time of filing.

When a case is set for trial or a contested hearing, the assigned prosecutor is required to promptly issue subpoenas to avoid delay, dismissal or forced compromises.

4.5. RESTITUTION LETTERS

Restitution is a critical and essential component of any sentencing hearing. To prepare for sentencing and to avoid delays, the filing prosecutor is responsible for sending restitution letters to the victims at the time of filing. By sending victim restitution letters when cases are filed, victims will be in a better position to collect their restitution documentation and information in a timely and efficient manner.

It is the policy of the BCDA that all prosecutors are expected to aggressively pursue full restitution for victims.

4.6. OTHER CASES PENDING ATTORNEY REVIEW

When an attorney files a case, he or she must check to determine if the suspect has any other cases pending attorney review. If the defendant has other cases pending attorney review, those cases must also be reviewed for a filing decision.

4.7. SELECTION OF NOTICE TO APPEAR OR ARREST WARRANT

When filing an out-of-custody case that does not have a citation date (aka CITE/BTA/OR date), the filing prosecutor must select whether to seek a notice to appear (NTA) or an arrest warrant (AW). The preference for misdemeanor out-of-custody cases is to request a notice to appear.⁸

Factors to consider when choosing NTA v. AW:

1. Public safety. What information is available indicating public safety concerns? Pay special attention to the attached domestic violence lethality red flag list for DV cases.⁹
2. The nature of the crime – violent v. non-violent.
3. Current or prior charges or convictions for violations of court orders.
4. Prior FTA convictions or open cases with FTA charges.
5. Number and nature of current open cases.
6. Statute of limitations.
7. Prior convictions.
8. How current/valid is the address listed on the agency face sheet for the suspect? Does it conflict with other recent sources?

4.8. REQUESTING BAIL OR NO BAIL AND IN-CUSTODY FILINGS

Assigned filing prosecutors are required to properly calculate and request the bail amounts on all complaints based upon the current Butte County Superior Court Bail Schedule.

If the bail amount is insufficient to protect the public, the filing attorney is required to file a motion to increase bail or file a motion requesting no bail. Any motion to increase bail or a motion for no bail must detail the evidence supporting the People's motion. Unsupported or conclusionary statements are not adequate support for bail-increase motions or no-bail motions.

For "in-custody filings", the filing prosecutor must decide if the defendant should be released and if released what specific terms should be requested having in mind issues of public safety and whether the defendant will return to court .

If a defendant should not be released, the docket must include a complete factual summary, an accurate list of defendant's convictions, a list of other open cases and charges, and the precise reasoning outlining

⁸ Out-of-Custody Filings – NTA v AW Procedure.

⁹ DV Lethality – Red Flag List

why defendant should remain in custody. Precise and accurate information is essential to ensure the calendar attorney can provide the court with a complete set of facts.

4.9. CASE SUMMARY

All filed cases must include:

A brief factual summary. The length and depth of the summary will vary depending on the significance and complexity of the case.

The defendant's record. A list of all felony and misdemeanor convictions.

An OR (own recognizance) recommendation. If the defendant is in custody, the filing prosecutor must include direction on whether or not to oppose OR. If opposed to OR, the statement must include the specific basis for opposing OR. If OR is not opposed, the filing prosecutor must include a list of any appropriate conditions.

4.10. MAJOR CRIMES AND SIGNIFICANT CASES

Prior to the filing or declination of a major crime or significant case, it is mandatory the assigned prosecutor notify and communicate with the DA. In the DA's absence or unavailability, the assigned prosecutor shall notify and communicate with the CDDA.

Major crimes are particularly aggravated felony offenses. A significant case is any crime, felony or misdemeanor, of public interest. Examples of major crimes or significant cases include but are not limited to:

- Any offense resulting in a death.
- Brutal, heinous or bizarre crimes.
- Hate crimes or offenses that may be motivated by animosity, prejudice, or dislike of a protected characteristic or class.
- Thefts from public entities, community organizations or organized religious groups.
- When the victim or suspect of a crime is a current/former elected official or a prominent individual in the community.
- Environmental crimes that may have or will have serious impacts on the public.
- Crime resulting in a significant injury of a first responder or medical personnel while on duty.
- Any case that has attracted significant media attention.
- Any "pinky sticky" case.¹⁰

4.11. POTENTIAL LIFE CASES

A life case is any offense with the potential sentence of life in prison.

¹⁰ A pink sticky case is any case marked, tagged or flagged indicating the DA is following the case.

Prior to the filing or declination of a potential life case, it is mandatory the assigned prosecutor notify, communicate with and receive direction from the DA. In the DA's absence or unavailability, the assigned prosecutor shall notify, communicate with and receive direction from the CDDA. The assigned prosecutor must document the DA or CDDA's direction in the file.

If the offense is a potential three-strikes case, the filing prosecutor must request a three strikes workup packet from the Investigations Bureau.

4.12. DOMESTIC VIOLENCE

Domestic violence occupies a strategic position in the fight against crime as it is the root of many other problems routinely encountered by law enforcement. Children growing up in violent households are often the violent criminals of tomorrow. By breaking the cycle of domestic violence, we are striking a strategic blow against future crime and shaping the future character of our communities.

To successfully prosecute any case, a prosecutor needs evidence. However, a significant percentage of domestic violence victims will be reluctant to testify, refuse to testify or recant earlier statements to law enforcement. Therefore, it is the objective of the BCDA to seek **victimless prosecution**.¹¹

To build a successful victimless prosecution case, the reviewing prosecutor is required to aggressively and promptly pursue follow-up interviews, collect all necessary materials and diligently search for and collect Evidence Code §1109 evidence.

¹¹ Victimless prosecution refers to structuring and building a case that can be proven without calling the victim as a witness (much like a homicide prosecution).

CHAPTER 5

CASE MANAGEMENT

*“The District Attorney’s job is to shepherd justice through the system,
despite the slings and arrows of outrageous fortune”*

-Anonymous

5.1. DISCOVERY: GENERAL

The Butte County District Attorney has an “open file” discovery policy meaning any and all discovery (e.g. all police reports, electronic media, expert summaries, statements, etc.) in a filed case is available for review by the defense. Any physical evidence in the possession of law enforcement is also available for inspection by the defense. These policies are outlined for the defense in the BCDA discovery cover sheet.¹²

Complying with *Brady* is the responsibility of each prosecutor. Both assigned and filing prosecutors are responsible for aggressively pursuing and promptly providing to the defense, any and all *Brady* material.

If an individual prosecutor becomes aware of a *Brady* violation or a possible *Brady* violation, he or she must immediately report the issue to the DA, CDDA or SDDA.

5.2. INITIAL DISCOVERY

The filing prosecutor is responsible for reviewing and preparing the initial discovery package for disclosure.

The assigned prosecutor is responsible for reviewing and ensuring all discovery has been made available to the defense in a timely fashion and to aggressively pursue any *Brady* material.

5.3. ADDITIONAL DISCOVERY

The assigned prosecutor shall review any follow-up information within 30 days of any additional material being received by BCDA. Following a review, the assigned prosecutor will discover the information or decline to discover the information. Prompt review is essential to avoid *Brady* violations, delays and repeated continuances.

The assigned prosecutor is also responsible for pursuing any additional discovery necessary for a just disposition, to strengthen a case and to pursue any and all *Brady* material.

When additional discovery arrives, the assigned prosecutor is also responsible for adding necessary witnesses to the subpoena sheet.

¹² See attached BCDA discovery cover sheet.

5.4. DEFENSE DISCOVERY

Any materials from the defense must be added to the case file. For co-defendant cases or related cases, any materials from one defendant must be reviewed for possible disclosure to other defendants. To accomplish this, all documents must be loaded into the appropriate case file in BCDA's digital case management system, eProsecutor. The case management system contains and is the official case file of any BCDA prosecution or investigation.

5.5. MASSIVE DATA FILES – MDF

Handling and discovery of massive data files (MDF) has a specific process and procedure. This process requires the assigned attorney to coordinate and communicate with law enforcement, the defense and BCDA's Information Systems staff.

The specific process and procedure can be found in the attached addendum.¹³

5.6. DISCOVERY PROCEDURE FOR CHILD PORNOGRAPHY

Due to the criminal nature of the material, child pornography has a distinct and unique discovery procedure. Discovery of child pornography must occur in one of two forms – either making arrangements with the defense attorney to view the material or arrangements for the defense attorney to receive a copy of the material.

If the defense elects to receive the material, the assigned prosecutor must follow a specific procedure outlined in the attached letter, obtain an order to release and destroy the material and a receipt from the defense. Please refer to the attached addendum materials which outline the child pornography release procedure.¹⁴

A prosecutor must not release alleged child pornography in any way, manner or form other the specific method outlined in the attached letter.

5.7. CONTINUANCES

The assigned prosecutor is required to move cases through the court system in a fair, aggressive and expeditious manner - avoiding unnecessary and repeated delays. Unnecessary delay can result in wasted resources, difficulty locating essential witnesses, fading memories and weakened prosecution cases.

When a continuance is requested, the prosecutor appearing on the case and/or the assigned prosecutor must note in the docket:

1. Who asked for the continuance;
2. The basis for the continuance;
3. If the continuance was opposed; and

¹³ See attached Massive Data File (MDF) procedures.

¹⁴ See attached child pornography discovery procedures.

4. What comments, if any, were made by the court when granting or denying the continuance. This level of detail is essential to provide a basis for opposing future unwarranted continuance requests from the defense.

5.8. SETTING OF PRELIMINARY HEARING

At the felony level, prosecutors are barred from placing a case on calendar for “setting of preliminary hearing” absent extraordinary circumstances, which must be noted in the docket.

5.9. MISDEMEANOR PRE-TRIALS

At the misdemeanor level, prosecutors are barred from repeatedly placing a matter on calendar for a pre-trial hearing or multiple (more than two) entry of plea appearances absent extraordinary circumstances, which must be noted in the docket.

5.10. SUBPOENA CALL OFFS

The assigned prosecutor is responsible for ensuring all witness call-offs are promptly issued, to communicate current case status to the BCDA subpoena desk and to update iSubpoena (the current BCDA LEO electronic subpoena system). If the assigned prosecutor is not available, then the prosecutor who appeared on the case is responsible for ensuring subpoena call-offs promptly occur. Specifically, trial subpoena call-offs require three steps:

1. The prosecutor must email the subpoena desk providing the name, case number and reason for the call-off – plea, continuance, etc. If possible, the next date and event should also be provided to allow the subpoena desk staff to promptly answer questions from victims, witnesses and law enforcement.
2. The prosecutor must use iSubpoena to call off law enforcement witnesses.¹⁵
3. The prosecutor must ensure that he/she or staff communicate with civilian witnesses and victims, and document the efforts and results in the digital file.

Preliminary hearing and other hearing subpoena call offs require two steps:

1. Email the subpoena desk providing the name and date of called off hearing.
2. The prosecutor must use iSubpoena to call off law enforcement witnesses.

5.11. DOCKET NOTES

Docket notes are used to track the history of a case and to communicate with our co-workers. It is essential docket notes accurately reflect what occurred in court and why.

The appearing attorney is expected to note what actions transpired in court, why those actions occurred and to record essential comments by the defense, prosecution or court. Each notation will contain

¹⁵ iSubpoena is an electronic system used to serve law enforcement witnesses with subpoenas and to advise law enforcement witness of cancelled or continued hearings and trials.

sufficient detail to easily allow the reader to determine what occurred, why it occurred, what the next event/appearance will be for and what actions must occur for the next court event/appearance.

Critical information includes, but is not limited to:

1. Judge, prosecutor and defense counsel or attorney who appeared for the counsel of record.
 - a. If an another attorney appears for defense counsel, please write “*Smith 4 Jones.*”
2. The presence, absence and custodial status of the defendant, including if the defense counsel appeared in lieu of his client per PC §977.
3. The issuance or holding of bench warrants and bail amount attached to the bench warrant.
4. The presence or absence of time waivers.
5. Bail amounts and any conditions of bail or OR.
6. Issuance, denial or modification of no contact orders.
7. The details and results of OR / Bail reduction motions.
8. Any relevant comments by the defendant. This may require writing down precise quotes from the defendant if a court reporter is not present.
9. What occurred at the court proceeding.
10. Both the date and nature of the next court event/proceeding.
11. Instructions to the support staff. Instructions to support staff are to be highlighted with a star or * symbol.
12. If subpoenas need to be issued, this should be noted with the star or * symbol for support staff.
13. Motions to continue. When a continuance is requested, the attorney appearing on the case is expected to note in the docket who asked for the continuance, the basis for the motion, if the motion was opposed and what comments were made by the defense, prosecution and judge when granting or denying the motion. This level of detail is essential to provide a basis for evaluating future motions to continue.
14. The current offer. The assigned attorney is expected to use docket notes to accurately list any current offer or accepted counter offers. If the offer is unusual or a significant departure from standard offers, the assigned prosecutor is required to state – in detail - on the docket (or a file memo) why the offer was made.
15. Communications or agreements with defense counsel. Essential communications or agreements with defense counsel about expected events, agreements or anticipated future proceedings.

16. Plea. What the defendant plead to. The docket notes must include the specific charge a defendant plead to and if the offense was a felony or misdemeanor. Example: PNC 245(a)(1), Ct. 2 – felony. A docket note entry listing only the count is inadequate.
17. Dismissals. The reasoning, factual background or legal basis for any dismissal which is not part of a plea bargain must be documented in a file memo. (See Dismissal section.) When a memo is created, the existence of the memo must be noted on the docket.
18. Sentencing information. Essential sentencing information must include:
 - a. Term of imprisonment, aka days in jail or years in prison.
 - b. If the term is county prison, state prison or mandatory supervision.
 - c. Length of probation.
 - d. Critical terms of probation. With grants of formal probation, noting the special term numbers is sufficient.
 - e. Restitution – amounts granted, victims, interest start-date, or if restitution is reserved.
 - f. Time credits for felony cases
 - g. Judicial comments about future crimes or misconduct. This includes any “last chance” warnings or similar comments by the court.
19. Suspension or unsuccessful termination of probation.
20. Number the Violations of Probation (VOPs). It is not unusual for a defendant to acquire multiple VOPs. Numbering the VOPs is useful to reduce confusion. For example: Admits VOP#1, what VOP#1 is and the sentence for VOP#1.

All cases on calendar must be documented in the docket notes. This can include the phrase “trails felony,” “trails lead case” or “see case number 21CFXXXX”. This process is essential to ensure all open cases and VOPs are addressed at plea and sentencing.

To facilitate effective communication, docket notes must be **legible** and use **only** abbreviations from the list of approved docket note abbreviations.¹⁶

5.12. LETTERS, MOTIONS, AND DOCUMENTS

Individual prosecutors are required to be able to access a case and easily locate all materials in a case. To accomplish this, **all documents** must be loaded into the appropriate case file in BCDA’s digital case management system, eProsecutor. The case management system contains and is the official case file of any BCDA prosecution or investigation.

¹⁶ See attached list of docket abbreviations.

Every prosecutor is expected to maintain the official case file in a clear, logical and organized fashion. Specifically, documents should be clearly, accurately and precisely labeled and titled for easy and rapid recognition.

5.13. PRELIMINARY HEARING MEMOS

For all felony cases, prior to arraignment on an Information, the assigned attorney must complete a preliminary hearing memo. The attorney must review their cases with their supervisor and the SDDA will either make a post-preliminary hearing offer or the case will be taken to the weekly staff meeting (aka “Info Review”) for evaluation.

The purpose of this process is to evaluate the strengths or weakness of a case, to ensure the consistency of offers by BCDA, to determine if additional investigation is needed, and to determine a post-PX offer.

Every attorney presenting a case at the staff meeting is expected to be well-versed in the facts of his or her case and prepared to answer questions.

5.14. EXPERT WITNESSES

Prior to retaining or incurring any expenses for an expert witness, attorneys must receive approval from the DA or CDDA. Every effort must be made to reasonably limit the expert’s billable time. Expert witnesses have a specific contract procedure.¹⁷

Any contract or agreement must be processed by BCDA administration and approved by the DA or CDDA. Any contract or agreement must be provided to the defense as possible *Brady* material via the discovery system.

5.15. IMMUNITY

Immunity for a witness or suspect may be granted only by the DA or CDDA. Any and all immunity offers to a witness, suspect or defendant must be in writing and include all details of any immunity agreements. Any and all immunity offers must be stored in the relevant case file or files and disclosed to the defense.

5.16. PLEA AND TESTIMONY AGREEMENTS

Any and all leniency deals, arrangements or understandings in exchange for testimony must be expressly approved by the DA or CDDA. After a plea and testimony agreement is authorized, any and all details, arrangements, inducements and understandings must be expressly documented in a “Plea and Testimony Agreement.”¹⁸ The “Plea and Testimony Agreement” must be included (and disclosed) in both the testifying defendant’s discovery file and the target defendant’s [or defendants’] discovery file or files.

¹⁷ Instructions for Expert Services and Witness Agreements.

¹⁸ Sample “Plea and Testimony Agreement.”

5.17. DISQUALIFICATION OF A JUDGE

CCP §170.6 or CCP §170.1 disqualifications may be filed only with the express approval of the DA.

5.18. DISMISSALS AND DISMISSAL MEMOS

For any dismissal, which is not part of a plea bargain, the assigned DDA is required to prepare an internal dismissal memo. The memo must specifically detail the reasons, factual background and legal basis for a dismissal. The memo must be clear, complete and professionally expressed. This memo serves two purposes. First, it serves to document the attorney's decision-making process, logic and conclusions. Second, it serves to communicate and preserve the evidentiary support and reasoning leading to a dismissal.

For any life case, or any crime defined as a "major crime" or "significant case" (See the Major Crimes and Significant Cases sections in the Filing and Declination Chapter and the Case Disposition Chapter) the assigned DDA must have the approval of the DA or CDDA prior to the dismissal. The dismissal memo must note whether the DA or CDDA authorized the dismissal.

The dismissal memo must be saved in the electronic file.

CHAPTER 6

VICTIM – WITNESS RELATIONS

“Justice is truth in action.”

-Benjamin Disraeli

The experience of being a witness is a challenging, stress filled and anxiety-producing role under the best of circumstances. The policies outlined in these sections can facilitate making the experience as positive as possible. Effective communication can establish trust, confidence and rapport with witnesses. Effectively working with witnesses, victims and next of kin is an essential prosecutorial skill, which can assist in building and maintaining persuasive cases.

Professionalism, patience and common courtesy must be extended to all witnesses and victims at all times. Prosecutors should be sensitive to the concerns of victims and their families. This sensitivity and professionalism plays a key role in working through the emotional needs and problems of families of homicide victims, sex crimes and domestic violence, as well as other impactful cases.

6.1. COMMUNICATION

The assigned prosecutor is required to keep victims and next of kin updated with significant case events, which include, but are not limited to offers, plea deals, trial dates and sentencing dates. Keeping victims and next of kin updated and informed of case developments, addressing their concerns and questions and satisfying *Marsy’s Law* is paramount. The assigned prosecutor is expected to coordinate with the BCDA Victim Assistance Bureau in communications with victims and victim next-of-kin.

When speaking with civilian witnesses or victims, the assigned prosecutor should strive to avoid making oneself a witness. This can be done via recording the witness, having an investigator or officer or victim advocate present, or avoiding a discussion of the factual details of a case. Any and all new and relevant case information provided by a witness must be provided to the defense in a timely fashion.

Interested victims or witnesses should be informed by the assigned prosecutor of the reasons for declining to charge, charging a lesser offense, settling a case or comparable actions.

Prosecutors are required to return phone calls or emails from victims, witnesses or next of kin within one working day of receiving the communication. Unless on vacation, voicemail boxes are to be kept in a status where the mailbox can receive and record messages.

6.2. WITNESS TRAVEL EXPENSES

Witness travel expenses must be approved by the DA or CDDA. Travel arrangements are to be made by BCDA administrative staff.

Any and all travel related expenses, anticipated expenses or offers to reimburse must be tracked and disclosed to the defense.

CHAPTER 7

CASE DISPOSITIONS

“While it may be true that some laws are black and white, life itself is constant gradients of gray.

Discretion fairly administered removes the sharp edges of the law to achieve justice.”

-Anonymous

7.1. FELONY PLEA OFFER PROCEDURE

All filed cases must include an offer sheet.¹⁹ For felony cases, the offer at filing is the pre-preliminary hearing (PX) offer. The offer sheet may state there is “no offer” or that an offer is “pending further investigation.”

Pre-PX offers expire at the first calendar call on the date of the preliminary hearing. If the defense has a legitimate basis to continue a preliminary hearing, the assigned prosecutor has discretion to hold the pre-PX offer open. However, if the defense is repeatedly continuing a PX, the assigned prosecutor is expected to revoke the pre-PX offer.

If the defense elects to waive the preliminary hearing, the prosecutor may elect to hold the pre-PX offer open until the arraignment on the Information. However, if the defense repeatedly continues arraignment on the Information or refuses to set a case for trial, the assigned prosecutor is expected to revoke the pre-PX offer.

After a defendant is held to answer and prior to arraignment on the information, the assigned prosecutor is required to complete a PX memo and review this memo with the SDDA. The SDDA will then either make a post-PX offer or refer the case to the weekly staff meeting (aka “Info Review”). At the staff meeting, the assigned prosecutor will be provided with a post-PX offer.

The assigned prosecutor cannot depart from the post-PX offer.

Post-PX offers expire at the trial readiness conference (TRC). If the defense has a legitimate reason to continue the trial, the prosecutor has discretion to hold the post-PX offer open. However, if the defense is repeatedly continuing the trial or declining to set a case for trial, the assigned prosecutor is expected to revoke the post-PX offer.

All offers expire when a case is confirmed at trial readiness conference (TRC). Any offer made at or after the trial assignment conference (TAC) must be approved by the DA or CDDA.

All offers must include all filed and pending cases. Prior to any resolution, the assigned prosecutor must check to ensure the suspect does not have any other filed charges or cases pending attorney review.

¹⁹ See attached Plea and Testimony Agreement.

7.2. MISDEMEANOR OFFERS WHEN A FELONY IS FILED

The filing of a felony charge is a statement the case merits a felony disposition. A felony cannot and should not be filed in order to obtain a misdemeanor plea. If the conduct warrants a misdemeanor plea offer, a misdemeanor rather than a felony should be filed.

Misdemeanor dispositions may be offered if the assigned prosecutor becomes aware of additional information, not available at the time of filing, warranting a misdemeanor disposition. Any such information or reasons warranting a misdemeanor disposition for a felony charge must be noted, in detail, in the docket.

7.3. MISDEMEANOR PLEA OFFERS

All filed cases must include an offer sheet.²⁰ The offer sheet may state there is “no offer” or that an offer is “pending further investigation.” The offer may state the filing prosecutor’s recommendation for punishment in the case.

All offers should include all filed and pending cases. Prior to any resolution, the assigned prosecutor must check to ensure the suspect does not have any other filed charges or cases pending attorney review.

All offers must include all filed and pending cases. Prior to any resolution, the assigned attorney must check to ensure the suspect does not have any other filed charges or cases pending attorney review.

All offers expire when a case is confirmed at the trial readiness conference (TRC). The DA or CDDA must approve any offer made at or after the trial assignment conference (TAC).

7.4. TIMING OF OFFERS

The timing and structure of offers is designed to strongly encourage early resolution of cases. Early resolution saves considerable resources for BCDA and our justice partners, including the courts. Barring unusual circumstances or significant changes in the evidentiary strength of a case, the prosecutor is required to make the best offer at or shortly after filing.

At the felony level the best offer should be the pre-PX offer.

At the misdemeanor level, the best offer should be made at or before the case is set for trial.

7.5. DISMISSALS

If the assigned prosecutor concludes a case cannot be proven beyond a reasonable doubt, the DDA must document, **in detail**, the specific reasoning and information warranting a dismissal in the case docket. If the assigned DDA received direction from the DA, CDDA or a SDDA to dismiss the case, the docket should include who made the decision and the reasons for the decision.

²⁰ See attached offer sheet.

For “Major Crimes and Significant Cases” the assigned prosecutor shall communicate with and receive direction from the DA or CDDA prior to dismissing a case or charge.²¹

7.6. DIVERSION

California law offers many different forms of statutory diversion including but not limited to PC 1000, Veteran’s diversion, mental health diversion, and misdemeanor diversion. Prior to agreeing to any form of diversion, other than PC 1000 diversion, the assigned prosecutor shall seek the approval of their SDDA. SDDA approval is not required for PC 1000 diversion.

BCDA does not engage in any form of diversion except statutory diversion.

7.7. SENTENCE BARGAINING

Sentence bargaining for felony cases is not allowed. A sentence bargain means an agreement or understanding between the People and the defense to a specific sentence. Exceptions to “no felony sentence bargaining” policy include “No Immediate State Prison Offers” and stipulating to an upper term sentence. Stipulations to the middle term require the approval of a SDDA. Stipulations to a lower term require the approval of the DA or CDDA.²²

7.8. NO IMMEDIATE STATE/COUNTY PRISON (NISCP) OFFERS

If a plea is entered in exchange for NIS/CP, it is required the defendant enter a guilty or no contest plea to all non-654 open counts, enhancements and cases. This must include any and all misdemeanor counts and cases.

NIS/CP offers where the charge or defendant is statutorily presumed to be ineligible for probation is strongly discouraged. If NIS/CP is offered when the individual or the offense is prison presumptive, the assigned prosecutor is required to document in the docket the reasons for the decision.

7.9. RESIDENTIAL BURGLARIES

Residential burglaries – PC 459 1st offenses – may not be dismissed as part of a plea bargain.

7.10. ASSET FORFEITURE

Whenever a plea bargain is entered in a criminal case that also has a related asset forfeiture action, the plea bargain must include a stipulation to forfeiture of seized assets. If a defendant is unwilling to stipulate to asset forfeiture, the assigned prosecutor is not to proceed with any plea bargain.

²¹ For the definition of Major Crimes and Significant Cases please see the Filing and Declination section.

²² For further details, the Stipulated Sentences Procedure is attached.

A criminal case is not to be dismissed in exchange for a stipulation to asset forfeiture. Additionally, the prosecutor assigned to the criminal case cannot negotiate a settlement for the asset forfeiture civil case. Any asset forfeiture negotiations are to be conducted by the prosecutor assigned to asset forfeiture.²³

Law enforcement requests for approval to begin the forfeiture process on seized assets are only to be granted or denied by the DDAs assigned to asset forfeiture, or the DA or CDDA.

7.11. DOMESTIC VIOLENCE²⁴

Reluctance by the victim to cooperate with the prosecution is not a controlling consideration in filing or disposition decisions for domestic violence cases. The decision to file and prosecute an offender is the sole responsibility of the prosecutor, not a victim and the assigned prosecutor is expected to file every DV case where the evidence is sufficient to prove the charge. However, the victim's refusal to cooperate and provide information essential to the prosecution is a factor to consider when determining if the case can be proven to a jury.

BCDA has a **no-drop policy** in cases of domestic violence – meaning the charges cannot and will not be dismissed or declined at the victim's request or if the victim recants his or her earlier statements. To dismiss a domestic violence case when the victim recants or becomes uncooperative often places the suspect in control of the case, and responsibility for the case on the victim. With a no-drop policy, responsibility for the case falls squarely on the prosecutor – it is the People and not the victim who are prosecuting the offender.

Victimless prosecutions and a **no-drop policy** will simultaneously serve to shelter victims from harassment, intimidation and violence and results in greater public safety and justice. However, the key to victimless prosecution lies with aggressive, effective and complete investigations and solid prosecutorial filing decisions.

Under no circumstances is a domestic violence case to be resolved as a 415.

7.12. SEXUAL ASSAULTS

If the victim of a sexual assault refuses to testify, the assigned prosecutor, by law, may not use court processes to compel his or her testimony. However, every effort is to be made by the assigned prosecutor to encourage the victim to testify in order to prevent future sexual assaults by a perpetrator.

7.13. MULTIPLE VICTIMS OF SEXUAL CRIMES

When the sexual crimes are committed against multiple victims, the assigned prosecutor will not name multiple victims in one count. Separate acts against victims will be charged in distinct and separate counts.

²³ See Asset Forfeiture FAQ for further details.

²⁴ See Penal Code § 13700 and Family Code §6211 for a list of domestic violence definitions.

When entering a plea bargain in a sexual crimes case, the assigned prosecutor will not offer or enter into a plea bargain listing more than one victim in an individual count absent the approval of the DA or CDDA.

7.14. MAJOR CRIMES AND SIGNIFICANT CASES

Prior to the disposition of a major crime or significant case, it is mandatory the assigned prosecutor notify and communicate with the DA. In the DA's absence or unavailability, the assigned prosecutor shall notify and communicate with the CDDA.

Furthermore, the assigned prosecutor will keep the DA informed of any important developments which occur in Major Crimes or Significant Cases.²⁵

7.15. POTENTIAL LIFE CASES

A life case is any offense with the potential sentence of life in prison.

Prior to the disposition of a life case, it is mandatory the assigned prosecutor notify, communicate and receive direction from the DA. In the DA's absence or unavailability, the assigned prosecutor shall communicate with the CDDA.

Life cases may not be resolved or dismissed without the express approval of the DA or CDDA. Any offers and the reasoning for such offers must be documented in the docket sheet by the assigned prosecutor.

7.16. VIOLENT FELONIES

If the defendant is charged with a crime or enhancement which makes the offense a violent felony (PC 667.5(c)), the charge or enhancement which makes the offense a violent crime may not be dismissed without authority from the CDAA or DA.

7.17. DUI

Filed DUI charges may not be dismissed except in three circumstances:

1. If the BA level is less than .10 and the defendant does not have any chargeable DUI priors, the assigned prosecutor may offer a VC §23103 / 23103.5 ("wet reckless").
2. The charge to be dismissed is PC§654 with an offense being admitted.
3. The charge cannot be proven beyond a reasonable doubt. If the charge or case is being dismissed, the assigned prosecutor must document in the case the specific problems or issues.

²⁵ For the definition of Major Crimes and Significant Cases please see the Filing and Declination section.

7.18. RESISTING ARREST – 148(A)(1)

Resisting arrest charges involving violent interaction with law enforcement are not to be dismissed.

7.19. PETTY THEFT INFRACTIONS - 490.1

An infraction may be offered or filed for petty theft in the following circumstances:

- The defendant has no prior record or open criminal cases.
- The item or items stolen were essential items, such as food or items for basic hygiene.
- The stolen item was not alcohol.
- The total value of the stolen material was less than \$50.00.

7.20. STATE PRISON V. COUNTY PRISON

If an offender is charged with both state prison offenses and county prison offenses, the prosecutor may not dismiss a state prison offense for a plea to county prison offenses.

7.21. EVIDENCE RELEASES

For all cases resolved or dismissed as part of a plea, the support staff will prepare and send evidence release memos to the agency holding the evidence after sentencing. If the assigned prosecutor concludes an evidence release should not be sent, it is the assigned prosecutor’s responsibility to clearly note in the docket at the time of sentencing, not to send an evidence release. Absent such a notation, the evidence release memo will automatically be sent by the clerical staff in all cases resolved by plea or dismissal.

Evidence release memos should not be sent in any co-defendant case or related cases until all co-defendants or related cases are sentenced.

For all cases which proceed to trial, the support staff will prepare and send an evidence release memo to the assigned prosecutor. The prosecutor will sign the memo and indicate the evidence needs to be held for a specific period, pending any possible appeal.

7.22. HARD FILE CASE STORAGE

All hard files for life cases and sexual offenses are to be marked “Do Not Destroy.”

Any cases placed in a box or boxes will be well marked with the case name, case number and the number of boxes (example box 3 of 4). If the boxed case is a life case or a sexual offense, the exterior of the box must be marked “Do Not Destroy.”

7.23. DIGITAL FILE STORAGE

Declined homicide, sexual assault and child abuse cases must be marked “do not destroy” to preserve the digital media records. To mark a case do not destroy, the assigned prosecutor must alert his or her

secretary and request the secretary mark the case, do not destroy, in the office electronic case management system.

Any case may be marked “do not destroy” at the discretion of the assigned prosecutor to preserve digital material.

In the absence of marking a case “do not destroy”, digital media records (photos, audio recordings, videos, and electronic device downloads) in declined cases will be automatically purged 90 days after the declination or closure of a case.

7.24. COURT EXHIBITS

Maintaining court exhibits from hearings or jury trials is critical for reconstructing cases at later court proceedings. The following processes should be used to maintain exhibits.

For hearings, including preliminary hearings:

1. A hard copy of paper / photo exhibits should be maintained in a hard file for retention and storage. See the hard file storage section for further information.
2. A copy of the exhibit should be scanned into eProsecutor and clearly labeled as a court exhibit.

7.25. FOR JURY TRIALS AND COURT TRIALS:

1. Following a court or jury trial, the prosecutor should decline to accept standard sized 8.5x11 paper / photo or thumb drive exhibits from the court until any appeal is final. Exhibits that are not standard sized paper items or thumb drives should be accepted by the prosecutor from the court for safekeeping.
2. Non-paper physical evidence that had been stored by the investigating agency prior to trial, should be accepted by the prosecutor and returned to the investigating agency for safe keeping.
3. Exhibits returned to BCDA by the court that had not been previously stored by the investigative agency, should be stored and retained by BCDA.
4. Exhibits for determinate term cases should be stored until all appeals are final.
5. Exhibits for life cases should be stored indefinitely. See the hard file storage section for further information.
6. A copy of the exhibit should be scanned into eProsecutor and clearly labeled as a court exhibit including the exhibit number and the nature of the court proceeding – trial, preliminary hearing, motion to suppress etc.

7.26. WARRANT RECALL AND CASE DISMISSALS

When a law enforcement agency or the court requests a recall of any unserved warrants on open cases (to clear out a backlog of old warrants), a list of those warrants are to be reviewed by the Butte County District Attorney. The assigned prosecutor will then review the request and, if appropriate, file a motion to dismiss the case and recall the warrant. Upon dismissal, the court will send a warrant recall notice directly to the agency.

Use the guidelines below to determine if an open case should be dismissed and the warrant recalled. Open cases can also include violations of probation. For warrants related to a violations of probation, the assigned prosecutor must request the court terminate probation unsuccessfully, “set aside any fines or fees not to include balance of victim restitution,” and recall the warrant.

Felony Cases:

Felony warrants should be recalled, and the case dismissed, ten (10) years after the issuance of the warrant, with the exception of:

- Crimes requiring registration as a sex offender after conviction, Penal Code section 290.
- Violent felonies listed in Penal Code section 667.5(c).
- Serious felonies listed in Penal Code section 1192.7(c).

Misdemeanor Cases:

Misdemeanor warrants should be recalled and the case dismissed five (5) years after the issuance of the warrant, with the exception of:

- Any crime requiring registration as a sex offender after conviction, Penal Code section 290.
- Manslaughter, Penal Code section 192(c).
- Any DUI.

After ten (10) years, all misdemeanor warrants should be recalled and the cases dismissed.

CHAPTER 8

OFFICER INVOLVED SHOOTINGS

When an attorney becomes aware of any circumstance where a peace officer discharged a firearm at a human being or if the incident involves death or serious bodily injury to a civilian due to some form of force, the attorney is to immediately inform the DA or the CDDA who may elect to activate the officer-involved shooting protocol.

CHAPTER 9

ABSENCES FROM WORK AND SCOTLAND YARD

“A professional is someone who can do his best work when he doesn’t feel like it.”

-Alfred Alistari Cook

9.1. ILLNESS AND EMERGENCIES

If an attorney is unable to report to work, he or she will personally notify his or her supervisor by 8:15 a.m. If illness or emergency requires the attorney to leave work, he or she will personally notify his or her supervisor.

9.2. NON-ILLNESS AND NON-EMERGENCY ABSENCES

For all other absences (non-illness and/or non-emergency) the attorney must have signed supervisorial approval for the absence.

Attorneys are to avoid having jury trials, court trials or sentencings on significant cases set during scheduled time off.

9.3. SCOTLAND YARD²⁶

Attorneys will keep the office’s Scotland Yard computer application accurately updated as to their location and/or work status.

²⁶ Scotland Yard is an internal computer application used to locate employees.

CHAPTER 10

FIREARMS

“One morning I shot an elephant in my pajamas. How he got in my pajamas I’ll never know.”

-Groucho Marx

Attorneys will not possess or carry a firearm while on county property, or at any other location while conducting business for the Butte County District Attorney. Such conduct is prohibited without the express written approval of the DA.

Approval or denial to possess or carry firearms while on county property rests solely with the DA and may be revoked at any time with or without cause. If written approval from the DA is granted, the attorney must also comply with any and all county personnel rules and state laws regarding firearms.

Attorneys shall not carry firearm while conducting business in the field for the Butte County District Attorney.

At no time are attorneys allowed to possess or carry any non-evidentiary firearm into any courthouse. A non-evidentiary firearm is any firearm not being presented to a judge or jury in a specific court proceeding.

Attorneys are barred from carrying an evidentiary firearm into the courthouse. If an attorney must bring an evidentiary firearm to court, the attorney must make prior arrangements with the involved agency’s investigating officer or the BCDA Investigation Bureau. Attorneys must use peace officers to bring firearms into the courthouse. Once an evidentiary firearm is inside the courthouse, the attorneys must follow the direction of courthouse security staff.

When an evidentiary firearm is returned from court, the attorney must make immediate arrangements with BCDA Investigation Bureau to secure the firearm.

CHAPTER 11

CONFIDENTIAL INFORMANTS AND BRADY LIST

11.1. COOPERATING INDIVIDUALS (AKA CONFIDENTIAL INFORMANTS)

Only the DA or the CDDA may approve the use of a defendant or suspect as a confidential informant. Any request from law enforcement to work with a defendant or suspect must be directed to the DA or CDDA.

When an “**SEE CDDA**” alert appears on a case within the BCDA case management system, the assigned / filing DDA must contact the CDDA prior to filing a case.²⁷ This alert can appear on defendants, witnesses or victims and serves as a *Brady* alert system. After communicating with the CDDA, the assigned / filing prosecutor is to note in the docket “contacted CDDA regarding CDDA flag” and document the CDDA’s direction.

For the CI’s safety, prosecutors may not mention, note or document an individual is a CI in any file. Additionally, the assigned prosecutor may not discuss an individual’s CI status or factual information surrounding a CI, in any setting which may compromise the CI identity or safety.

Absent a court order and the express approval of the DA or CDDA, prosecutors may not knowingly disclose the identity of a CI or information that may lead to the identification of a CI.

An assigned prosecutor may not state, suggest or imply possible consideration for any CI information. Any consideration for informant work must be expressly approved by the DA or CDDA.

11.2. BRADY LIST

When an individual appears on the *Brady* list, a “**SEE CDDA**” alert will appear. This notice serves as a *Brady* alert system. Prior to the filing of any case involving an individual on the *Brady* list, the assigned prosecutor must contact the CDDA. After communicating with the CDDA, the assigned / filing prosecutor is to note in the docket “contacted CDDA regarding CDDA flag” and document CDDA direction.

Attorneys will not discuss with the defense attorney why an officer is on the Brady list. This is essential because the attorneys understanding or information about by a person is on the Brady list may be inaccurate or incomplete. Additionally, the information may be protected, non-public information.

Should an individual be on the office’s Brady list and is a material witness on a filed case, the CDDA will instruct the assigned DDA to alert defense counsel of that fact.

²⁷ The “**SEE CDDA**” flag is visible only to attorney users of eProsecutor.

CHAPTER 12

CONFLICT OF INTEREST AND RECUSAL

“No brilliance is needed in the law. Nothing but common sense and relatively clean finger nails.”

-John Mortimer

If an attorney becomes aware of a possible conflict, such as a personal tie to a criminal case or family tie to a criminal case, the attorney is to inform his or her supervisor.

If an attorney has been “walled off” from a case, he or she is barred from seeking any non-public information about the case or making inquiries to BCDA staff about the case. When an attorney is walled-off from a case, he or she must direct questions about the case to the DA or CDDA.

If an attorney is aware a coworker has been walled-off from a case, the attorney is to direct any inquiries about the status of the case from the employee to the DA or CDDA.

If an attorney becomes aware of a coworker having a possible conflict, such as a personal tie to a criminal case or family tie to a criminal case, the attorney must inform his or her supervisor.

CHAPTER 13

NEWS MEDIA

“Were it left to me to decide whether we should have a government without newspapers or newspapers without a government, I should not hesitate for a moment to prefer to latter.”

-Thomas Jefferson

The public is entitled to know what occurs in their criminal justice system and the public largely gets this information through the news media. To accomplish this, it is vital open lines of communication be maintained between BCDA and the media. The proper approach to the media is to be open, professional and cooperative while adhering to State Bar Trial Publicity rules.

No press releases or written information may be released to the media (traditional or social) without the express approval of the DA or CDDA.

If an attorney has contact, communication or provides verbal information to the media, the attorney is to immediately report the contact and full nature of the communication to the DA or CDDA. Attorney – Media communication is limited to specific cases either assigned to the attorney or cases where the attorney made a recent court appearance. The attorney is expected not to comment on cases assigned to other attorneys or cases where the attorney has not made a recent court appearance.

If an attorney is aware of media interest in a case, the attorney is to immediately report to the DA or CDDA and to alert the DA or CDDA when the case reappears on calendar.

Major crimes and significant cases are of prime concern to the news media.²⁸ If an attorney is aware of a case that has facts which warrant media attention, the attorney is to immediately report to the DA or CDDA as soon as possible.

²⁸ For the definition of Major Crimes and Significant Cases please see the Filing and Declination section.

CHAPTER 14

COMMUNICATION WITH THE STATE BAR

“Experience is not what happens to you; it is what you do with what happens to you.”

-Aldous Huxley

Any complaint to the California State Bar regarding the conduct of a criminal defense attorney is to be conducted solely by or at the express direction of the DA. Individual attorneys are strongly encouraged to report and document observations of defense attorney misconduct to the DA.

If the State Bar directly contacts an individual prosecutor regarding the conduct of that prosecutor or any other attorney, the prosecutor is required to inform the DA or CDDA prior to responding to any communication from the State Bar.

CHAPTER 15

COMMUNICATION WITH THE COMMISSION ON JUDICIAL PERFORMANCE

“Tact is the knack of making a point without making an enemy.”

-Sir Isaac Newton

Any complaint to the Commission on Judicial Performance regarding the conduct of a judge is to be conducted solely by or at the express direction of the DA. Individual attorneys are strongly encouraged to report and document observations of judicial misconduct to the DA.

If the Commission on Judicial Performance directly contacts an individual prosecutor regarding the conduct of a judge, the prosecutor is required to inform the DA or CDDA prior to responding to any communication from the Commission on Judicial Performance.

CHAPTER 16

SUBPOENAS AND THIRD-PARTY RECORDS

16.1. PUBLIC RECORDS ACT OR FREEDOM OF INFORMATION ACT REQUESTS

Due to strict time limitations and potential civil liability, attorneys must immediately report any PRA or FOI requests to the DA or CDDA.

16.2. SUBPOENAED ATTORNEYS

When a BCDA attorney is subpoenaed, the attorney will immediately notify his or her supervisor.

16.3. SUBPOENAED RECORDS

When an attorney is aware of a subpoena for BCDA records, the attorney will immediately notify his or her supervisor.

16.4. THIRD PARTY REQUESTS FOR INFORMATION

When an attorney is aware of a third-party request for non-public information, the attorney will immediately notify his or her supervisor.

CHAPTER 17

ADMINISTRATIVE

“It is not the critic who counts; not the man who points out who the strong man stumbles, or where the doer of deeds could have done better. The credit belongs to the man who is actually in the arena.”

-Theodore Roosevelt

17.1. ATTORNEY TRAVEL EXPENSES

Attorneys will not be compensated for training related travel expenses unless the training has been expressly approved by his or her supervisor. Second, all travel arrangements must be made through a BCDA administrative assistant. Travel expense compensation requests not made by a BCDA administrative assistant may be rejected by the DA.

17.2. CELL PHONES AND DIGITAL DEVICE SECURITY

Any portable digital device containing access to confidential BCDA information must have a security code or biometric security. The security system must be set up to automatically activate after a period of non-use. This includes any personal cell phone for which the prosecutor receives a cell phone stipend.

17.3. CASE FILE SECURITY

Prosecutors are required to keep case files in a secure location. Case files are not to be left unsupervised in unsecured locations in the courthouse or any other public setting. If a prosecutor takes case files home, the case files must be stored inside a locked vehicle or structure.

17.4. COURT APPROPRIATE CLOTHING

Prosecutors are required to appear in court for unexpectedly absent colleagues or on cases unexpectedly on calendar. On any day the courthouse is open, prosecutors will either report to work in court-appropriate clothing or have immediate access to court-appropriate clothing in their office.

17.5. SUBMISSIONS TO COURT

All documents submitted to the court must use Times New Roman font and 12-point size.

CHAPTER 18

ASSISTANCE AND ADVICE TO LAW ENFORCEMENT

“Education is not a product... it is a process, a never ending one.

-Bel Kaufman

18.1. HOMICIDE OR OFFICER INVOLVED SHOOTING CASES

When attorney is contacted by law enforcement seeking advice on a recent or “fresh” homicide, the attorney is to promptly notify the DA or CDDA.

Advice on homicide cases should be provided to law enforcement only by the prosecutor specifically assigned to the homicide or by a SDDA. If contacted for advice on a homicide case, a DDA will refer the officer to the DA, CDDA or a SDDA.

18.2. SEARCH WARRANTS

To review and approve a search warrant, the reviewing DDA must have completed a CDAA class on search warrants and be assigned to felony level cases or be a SDDA. Prosecutors are strongly encouraged to direct any search warrants to the DDA assigned to the case or the DDA who will be assigned to the case pursuant to the current organizational chart during normal working hours. After hours or on non-workdays, law enforcement should be directed to the On-Call Deputy District Attorney.²⁹

Attorneys may not review a search warrant if the attorney has or had a dating or intimate relationship with the affiant or sources relied upon by the affiant. If no prosecutor has been assigned to the homicide, the search warrant must be sent to the DA or CDDA for review or if the DA and CDDA are unavailable, a SDDA.

To review and approve any search warrant in a homicide case, the DDA must be the prosecutor specifically assigned to the case.

²⁹ See On Call DDA Procedure

BUTTE COUNTY DISTRICT ATTORNEY'S OFFICE ACKNOWLEDGMENT AND ACCEPTANCE

The Butte County District Attorney policy manual is intended to be a guide outlining general policies and is not all inclusive. The District Attorney and the County of Butte expressly reserve the right to make any changes in the policies.

Your signature below certified you have read the Policy Manual and you understand, accept and will abide by the policies outlined in the manual. Furthermore, it is understood the manual is an addition to and not a substitute for the Butte County Personnel Rules or any MOU agreement between the attorneys and the county.

Printed Name: _____

Signature: _____

Dated: _____

Return the signed form to the BCDA human resources representative.

**ATTORNEY PERFORMANCE EVALUATION
BUTTE COUNTY
OFFICE OF THE DISTRICT ATTORNEY**

Attorney _____ Employee Number _____

ADDENDUM TO COUNTY PERFORMANCE EVALUATION REPORT

Deputy District Attorneys and Supervising Deputy District Attorneys are expected to conduct all prosecutions in a thorough and professional manner relying upon skills and attributes in the following areas:

I. CASE PREPARATION AND CALENDAR MANAGEMENT

STANDARDS:

1. Prepares cases thoroughly and in a timely manner.
Prioritizes work, meets deadlines and keeps backlog to a minimum.
2. Recognizes the strengths and weaknesses of a case, quickly identifies possible problem areas and anticipates defenses.
3. Gathers and organizes necessary evidence.
4. Generates clear, reasonable and professional requests for follow up investigation.
5. Organizes caseload well enough to allow for unforeseen contingencies.
6. Interviews witnesses, is sensitive to fears and concerns of victims/witnesses and keeps them informed as the case progresses through the legal system.
7. Demonstrates excellent writing skills: generates reports, memos, letters, docket and case notes in a clear and legible manner.
8. Researches evidentiary questions and can articulate legal theories involved in the case to assist the court in ruling correctly.
9. Comes to staff meetings completely familiar with the facts of the case and is prepared to answer questions about the case and applicable law in a thorough and succinct manner.
10. Exercises appropriate judgement and demonstrates common sense when negotiating case dispositions. Understands and complies with the policies of the District Attorney and professionally maintains a firm position with offers.
11. Seeks the counsel of a supervisor when necessary or appropriate.
12. Is always thoroughly prepared, professional and on time when appearing in court.

Attorney meets standards in the following areas:

Attorney exceeds standards in the following areas:

Attorney requires improvement in the following areas:

Attorney performance is not satisfactory in the following areas:

II. COURTROOM AND TRIAL SKILLS

STANDARDS:

1. Proficient in the courtroom: prepares effective pretrial motions with accurate, persuasive points and authorities.
2. Persuasive speaker. Articulate and poised when addressing the court, opposing counsel, and while conducting voir dire, opening and closing arguments, direct and cross examination as well as making and responding to objections.
3. Consistently able to anticipate impact of evidence on judge and jury and employ appropriate strategies.
4. Demonstrates imagination, resourcefulness, sensitivity and good judgment when dealing with unexpected issues that arise during trial.
5. Utilizes power point or other resources to prepare informative and persuasive courtroom presentations.
6. Handles exhibits properly and presents evidence in a logical sequence.
7. Willingly and ably accepts difficult, complex, hard to prove cases and tries them when appropriate to do so rather than seek dismissal, plea bargain, reassignment or continuance.
8. Thoroughly explains court process and prepares victims/witnesses for testimony.
9. Attempts to accommodate schedules of victim/witnesses.
10. Makes proper use of victim/witness services.
11. Strictly adheres to the high ethical standards demanded of a prosecutor while both in and out of the courtroom.

Attorney meets standards in the following areas:

Attorney exceeds standards in the following areas:

Attorney requires improvement in the following areas:

Attorney performance is not satisfactory in the following areas:

III. PROFESSIONAL RELATIONS

STANDARDS:

1. Seeks to make it easy for other agencies to cooperate with the District Attorney's office.
2. Returns phone calls, emails and correspondence in a timely fashion.
3. Properly responds to all complaints while maintaining a professional and courteous attitude. Always uses good judgement in verbal and written communications with others.
4. Demonstrates respect and support for the duties, roles and responsibilities of others with whom he/she has professional contact, including but not limited to, law enforcement, judges and court staff, defense attorneys and media representatives.
5. Professional and courteous with judges and defense attorneys even in the face of adverse rulings.
6. Professional and informative when advising officers on applicable law, case dispositions, trial tactics and office policies.
7. Cognizant of the District Attorney's policy to keep the public informed on cases covered by the news media: is professional and informative within the restrictions of the State Bar rules and office policy.
8. Does not make unreasonable demands of investigators or clerical staff.
9. Courteous and friendly with co-workers but respects personal boundaries.
10. Actively listens to others.
11. Maintains an open and professional attitude when confronted with criticism or complaint.

Attorney meets standards in the following areas:

Attorney exceeds standards in the following areas:

Attorney requires improvement in the following areas:

Attorney performance is not satisfactory in the following areas:

IV. JOB ATTITUDE AND MOTIVATION

STANDARDS:

1. Adjusts quickly and effectively to changing assignments and responsibilities.
2. Supportive of others and willing to assist to provide coverage for coworkers when needed.
3. Seeks out challenging projects. Continually learns from previous experiences.
4. Contributes ideas and displays enthusiasm and creativity in problem solving.
5. Demonstrates organizational pride.
6. Fully participates in staff meetings, training sessions, conferences and departmental meetings and demonstrates use of information and skills attained.
7. Attorney is self reliant but asks for assistance when appropriate and seeks input from others with expertise.
8. Keeps supervisor informed of noteworthy events but requires minimum supervision.
9. Attorney remains composed, organized and professional under stress. Correctly assesses the situation and takes appropriate steps to solve the problem and complete the task.
10. Attorney regularly attends CLE classes and takes advantage of opportunities to hone his/her prosecutorial skills.

Attorney meets standards in the following areas:

Attorney exceeds standards in the following areas:

Attorney requires improvement in the following areas:

Attorney performance is not satisfactory in the following areas:

V. WORK HABITS

STANDARDS:

1. Adheres to scheduled work hours and is willing to exceed scheduled work hours to complete tasks.
2. Promptly notifies supervisor when unable to work.
3. Schedules time off in advance and avoids adverse impact on others.
4. Prompt and prepared for staff meetings.
5. Completes assignments on time.
6. Approves automated payroll timecard on time.
7. Keeps accurate account of time spent on grant programs and records time according to department procedures.
8. Routinely updates Scotland Yard regarding whereabouts during the work day.
9. Ensures e-mail and voice mail is available for new messages at all times.
10. Adheres to all county and departmental policies.
11. Complies with the County Sexual Harassment Prevention Policy.
12. Knows and adheres to the strict ethical standards and practices required of a prosecutor.

Attorney meets standards in the following areas:

Attorney exceeds standards in the following areas:

Attorney requires improvement in the following areas:

Attorney performance is not satisfactory in the following areas:

VI. SUPERVISOR PERFORMANCE

STANDARDS:

1. Provides effective leadership and leads by example.
2. Accesses the needs of his/her employees and provides training/assistance to meet those needs.
3. Available to meet the needs of attorneys he/she supervises.
4. Demonstrates excellent judgement.
5. Observes and counsels their team members in court.
6. Provides constructive criticism, guidance and encouragement as necessary.
7. Able and willing to take over the task of another attorney when necessary to benefit the goal of the District Attorney's office.
8. Anticipates potential problems and is active in formulating solutions.
9. Keeps the District Attorney and Chief Deputy informed of issues that arise in the courtroom which impact the District Attorney's Office.
10. Maintains the highest of ethical and professional standards.

Supervisor meets standards the following expectations:

Supervisor exceeds standards in the following areas:

Supervisor requires improvement in the following areas:

Supervisor performance is not satisfactory in the following areas:

VII.

**GOALS, CAREER AMBITIONS, JOB PREFERENCES,
COMMITMENT TO PROFESSIONAL DEVELOPMENT &
PREPARATION NECESSARY FOR PROMOTION TO NEXT LEVEL**

VIII.

EVALUATION SUMMARY OVERALL PERFORMANCE

BUTTE COUNTY DISTRICT ATTORNEY'S OFFICE

DECISION + FOLLOW UP REQUEST

CONFIDENTIAL

Investigating Agency:	Date:	Officer Name and Badge #:
Defendant(s):		
Prosecutor:	Case Type: <input type="checkbox"/> Adult <input type="checkbox"/> Juvenile	

DA Decision

- Complaint authorized.
- Complaint authorized but follow-up information required. See below.
- Request for complaint held pending receipt of follow-up information. See below.
- Request for felony complaint declined, filed as misdemeanor. See below.
- Request for felony complaint declined, filed as misdemeanor, but follow-up information required. See below.
- Subsequent follow-up required. See below.
- Request for complaint declined. See below.

Follow-Up Instructions

ATTORNEY WORK PRODUCT - Do not include this page or reference the questions below in any report. When you prepare a supplemental report based on the questions below, you may reference: "In response to a request for follow-up, I..."

Please do not return this form to the DA's office.

If you are unable to answer a particular question or request for follow up because you did not conduct the relevant investigation, please forward the request to the appropriate officer.

If you have questions or concerns about the requested follow up, please feel free to contact the DDA. Email and phone contacts are listed above.

Requested Follow-Up

Please have below follow-up completed no later than:

DA Reduction or Decline Reasons



Corrected Copy

ADULT DISPOSITION OF ARREST AND COURT ACTION

SUBJECT INFORMATION

Name (Last, First, Middle)			DOB (mm-dd-yyyy)			CII Number		
Social Security Number		Driver's License Number		FBI Number 490037KD2		Hgt	Sex	Race

A. LAW ENFORCEMENT

Arrest/Cite Date (mm-dd-yyyy)		Arresting Agency		Booking Agency			
LiveScan Booking Number		Citation Number		Crime Report Number		Remarks	

Chrg	Level			Arrest Charge (Section/Code)	On View X	In-County Warrant Number	Out-of-County Warrant Number	Release Date	Reason for Release Code
	I	M	F						
1									
2									
3									
4									

Type of Event: Arrest Citation Letter/Notice to Appear Court Ordered Booking

B. PROSECUTION

Date (mm-dd-yyyy)		Reason for Rejection/Referred Codes					<input type="checkbox"/> 1203.2 PC - In Lieu of Filing		Original Court Judicial District Number		Original Court Case Number	
Chrg 1	Chrg 2	Chrg 3	Chrg 4	All Chrgs		<input type="checkbox"/> Refiled - Original Case Dismissed						

C. COURT

Date Filed (mm-dd-yyyy)		Judicial District Number		File Number		Consolidated File Number	
-------------------------	--	--------------------------	--	-------------	--	--------------------------	--

Chrg	File Level			Final Plea		Disposition					Disposition Date (mm-dd-yyyy)	Charges and Enhancements at Disposition (Section/Code)	Degree	Disposition Level			
	I	M	F	G	Nolo	Conv by Trial	Dism Code	Cert Juv	Acq	Not Guilty/ Insane				I	M	F	
1																	
2																	
3																	
4																	

D. PROCEEDINGS SUSPENDED

Date (mm-dd-yyyy)		<input type="checkbox"/> Bench Warrant Issued	<input type="checkbox"/> 707.2 WI - 90 Day Observation	<input type="checkbox"/> 1368-1370 PC - Found Mentally Incompetent - Committed
		<input type="checkbox"/> Diversion	<input type="checkbox"/> 1203.03 PC - 90 Day Observation	<input type="checkbox"/> 3050 WI - Narcotics Commitment
		<input type="checkbox"/> 1000-1000.5 PC - Drug Court Program / Deferred Entry of Judgment		<input type="checkbox"/> 3051 WI - Narcotics Commitment

E. SENTENCE

Date (mm-dd-yyyy)		Condition of Probation			Other		Remarks	
		<input type="checkbox"/> Firearms Prohibited - 29815(a) PC	<input type="checkbox"/> Drug Treatment Program - 1210.1 PC (Prop 36)	<input type="checkbox"/> 1170(h) PC				

Chrg	Reduced to Misd. X	290 PC REG				ISS	Prob	Jail			Fine		Rstn	Jail or Fine		Conc	Cons	Vol Wrk	Costs	DJJ	Prison Sentence Information			
		Mand X	Discret X	Con of Prob Only X	Internet ID Req. X	X	Mos	Days	Days Susp	X	Susp X	X	Days	Susp	X	X	X	X	X	Stayed X	Total Fixed Term (All Charges)		To be served:	
1																						Years	Months	<input type="checkbox"/> Concurrently
2																								<input type="checkbox"/> Consecutively
3																								W/Case Number:
4																								<input type="checkbox"/> Suspended

F. ADMONISHMENTS & WAIVERS

(Required for Conviction)		(Required for "Guilty" or "Nolo" plea)		Yes	No
<input type="checkbox"/> Defendant waived counsel	<input type="checkbox"/> Defendant represented by counsel	Defendant was advised of and understood:		<input type="checkbox"/>	<input type="checkbox"/>

G. CLERK OF THE COURT'S CERTIFICATION

I certify that the foregoing is a correct abstract of the disposition of arrest and court action in this case. (Certification required for conviction)		Defendant was advised of, understood, and waived:		<input type="checkbox"/>	<input type="checkbox"/>
Legibly Printed or Typed Name		Date (mm-dd-yyyy)		<input type="checkbox"/>	<input type="checkbox"/>
Title		County		<input type="checkbox"/>	<input type="checkbox"/>
		Court found admission was knowledgeable, intelligently made, and voluntary		<input type="checkbox"/>	<input type="checkbox"/>
		Defense counsel concurred in defendant's admission		<input type="checkbox"/>	<input type="checkbox"/>

JUS8715/8715A INSTRUCTIONS AND CODE EXPLANATIONS

Please refer to the
DISPOSITION REPORTING GUIDE
for complete instructions.
The guide is located on the CLEW
website at <https://clew.doj.ca.gov/>

SUBJECT INFORMATION

The agency that initiates the JUS 8715/8715A must fill out this section.

A. LAW ENFORCEMENT

The JUS 8715/8715A is to be initiated by the agency that makes an arrest for which a fingerprint-based arrest report has been submitted to the California Department of Justice (DOJ). The arresting/booking agency should complete Section A then either furnish the form to the DOJ (if disposition is final) or route the form to the prosecution when requesting that charges be filed.

Enter one of the following codes to indicate final disposition at the law enforcement level:

- 849(b)(1) PC**
- 1 Complainant Refuses to Prosecute
 - 2 Arrestee Exonerated
 - 3 Further Investigation
 - 4 Admissible Evidence Insufficient
 - 5 Ascertainable Evidence Insufficient
 - 6 849(b)(2) PC
 - 7 849(b)(3) PC
 - 8* Other Law Enforcement Disposition

Out-of-County Warrant Releases

- 10 Released on Bail
- 11 Extradition Proceedings
- 12 Cited and Released
- 13 Release/Enroute to Other Agency/Jurisdiction (Specify in Remarks Area)

* Enter the particular reason(s) for release in the "Remarks" area of Section A of the JUS 8715.

B. PROSECUTION

The prosecuting agency is responsible for completing Section B on the JUS 8715 when deferring or rejecting any charge.

Enter one of the following disposition codes in the corresponding charge box for each charge deferred or rejected:

- A Lack of Corpus
- B Lack of Sufficient Evidence
- C Inadmissible Search/Seizure
- D Victim Unavailable/Decline to Testify
- E Witness Unavailable/Decline to Testify
- F Combined with other Counts/Cases
- G Interest of Justice
- H Other (indicate reason in "Remarks" area)
- I Referred to Non-California Jurisdiction
- J Deferred for Revocation of Parole
- K Further Investigation
- L Prosecutor Prefiling Deferral

After deferral, the prosecutor is responsible for completing Section B, Reopen from Prosecution Prefiling Deferral, on the JUS 8715A.

C. COURT

When the court initiates the disposition document, the complete booking information must be added by the court, or the disposition must be forwarded to the booking agency for the missing arrest/booking information. In cases where the subject has not already been booked, the court should order the subject booked. The court is responsible for initiating a disposition document when:

- * The JUS 8715 was not initiated by a law enforcement agency, but the subject appeared in court.
- * The case was reopened, retried, or subsequent action occurred. Use the JUS 8715A to record this information.

The court is responsible for completing Sections C, D, E, F, and G on the JUS 8715 and Sections C, D, E, F, G, and H on the JUS 8715A.

Enter one of the following dismissal codes in the corresponding charge box for each charge dismissed:

- a* 1385 PC - Dismissal in the furtherance of justice.
- b 1377-1378 PC - Case compromised/restitution or satisfaction made.
- c 871 PC - Court found insufficient cause.
- d 1381-1382 PC - Delay - not filed/brought to trial within time.
- e* 995 PC - Accusation set aside.
- f 1008 PC - Defective accusation.
- g 1099 PC - Defendant became witness for the people.
- h 1100 PC - Insufficient evidence - witness for codefendant.
- i 1185-1187-1188 PC - Judgment arrested - defendant discharged.
- j 1185-1187-1188 PC - Judgment arrested - defendant recommitted.
- k* Mistrial - defendant discharged.
- l* Mistrial - defendant recommitted.
- m* Any dismissal other than a through l.

* Note the particular reason(s) for dismissal or declaration of mistrial in the "Remarks" area of Section E of the JUS 8715 and Section F of the JUS 8715A.

ROUTING

All pages of the JUS 8715/8715A forms accompany case documentation as it is forwarded to each agency involved in processing the case. Once a final disposition is rendered, the original first page is sent to the DOJ at the following address:

California Department of Justice
Bureau of Criminal Information and Analysis
P.O. Box 903417
Sacramento, CA 94203-4170

- A. **JUS 8715:** The second page (blue) is retained by the law enforcement agency if final disposition occurred at the law enforcement level. If final disposition occurred at any other level, the second page (blue) should be returned to the law enforcement agency when final disposition occurs. The third page (green) is retained by the court having final jurisdiction.
- B. **JUS 8715A:** The last page (JUS 8715A) is retained by the court and used to report any pertinent subsequent action information. Once completed, the original JUS 8715A is mailed to the DOJ, a photocopy is forwarded to the law enforcement agency, and a photocopy is retained by the court.



BUTTE COUNTY DISTRICT ATTORNEY MEMORANDUM

“To do Justice, as no one is above the Law, nor beneath its protection”

To: All Staff
From: Michael L. Ramsey, District Attorney
Subject: **OUT-OF-CUSTODY FILINGS
NOTICE TO APPEAR V. ARREST/BENCH WARRANT**
Date: October 26, 2022

There are four ways to get an out-of-custody defendant into court:

1. Citation Date (CITED/BTA/OR date)
2. Notice to Appear (NTA)
3. Bench Warrant (BW)
4. Arrest Warrant (AW).

When a **Request for Complaint** is submitted on an out-of-custody suspect and a decision to file is made, the next decision is how the now-defendant should be summoned to court. If the suspect was previously released on a signed citation either in the field or from the jail on a cite or OR, that defendant is required to come to court on that **CITED/BTA/OR** date. If the defendant does not appear on his/her promise, a Bench Warrant will be issued by the Court for the defendant.

However, if the suspect was not been cited to appear in court (i.e. has not been caught yet), the filing prosecutor must make a decision - **NTA or AW** - after the filing decision. The default position of this office is to request a NTA, particularly on misdemeanors. The ultimate decision is driven by public safety considerations and the likelihood of D appearing. For example, a D with multiple FTA warrants or a transient address is unlikely to appear and an AW request should be made. The choice must be communicated to support staff so they can complete the District Attorney Complaint Cover Sheet (attached) with the proper choice to send to the Court with the Complaint. [No choice means the default position of NTA will be chosen.]The Court will be using the addresses automatically generated on the complaint so please pay attention to the addresses and provide the Court with the best information available when requesting an NTA.

Normally a Law Enforcement Agency will submit a **Declaration of Probable Cause for an Arrest Warrant** (PC Dec) with the Request for Complaint for an out-of-custody non-arrested or non-cited suspect. If the Request for Complaint on such a suspect is submitted without a PC Dec, and the assigned prosecutor decides to file a complaint and request an AW, that prosecutor should request the submitting agency to submit a PC Dec.

Even if the assigned prosecutor decides to issue a NTA, any included LEA PC Dec should be sent to the Court in case the defendant fails to appear – as the Court would then be able to quickly use the PC Dec to issue an AW.

DISTRICT ATTORNEY COMPLAINT COVER SHEET

ATTACHED IS A FELONY MISDEMEANOR INFRACTION

NAME: _____

NEW COMPLAINT. CITED/BTA/OR TO APPEAR ON _____
FOR COMPLAINTS THAT INCLUDE DIFFERENT AGENCIES
COUNT #S _____ GO TO _____ AGENCY
COUNT #S _____ GO TO _____ AGENCY
COUNT #S _____ GO TO _____ AGENCY

AMENDED COMPLAINT. CASE NO. _____ COURT DATE _____

RE-FILE OF A DISMISSED CASE. ORIGINAL CASE NO. _____

ATTACHED SUPPORTING DOCUMENTS:

DOJ 8715 FORM DOJ 8715 FORM UPLOADED TO K:DRIVE

1269 AND/OR 1275 PC FORM

136.2 ORDER

ELIGIBILITY STATEMENTS PROP 36 PC 1000 DV

DECLARATION FOR ARREST WARRANT

OTHER: _____

REQUEST COURT ISSUE:

NOTICE TO APPEAR

ISSUE WARRANT

PROBATION INFORMATION:

PRCS/MS/FORMAL PROBATION YES NO

IF YES EMAIL A COPY OF THE COMPLAINT TO PROBATION AT ProbFormalPRCS@Buttecounty.net

DATE SENT TO COURT: _____

HARD COPY EFILED

SECRETARY INITIALS: _____

BENCH GUIDE FOR RECOGNIZING DANGEROUSNESS IN DOMESTIC VIOLENCE CASES

By Jacquelyn C. Campbell, PhD, RN, FAAN and
Hon. Sharon Chatman, Superior Court of California, County of Santa Clara

This tool is a research-based bench guide for use by judicial officers at all stages of judicial proceedings involving allegations of domestic violence and orders of protection in civil and criminal domestic violence cases.

Research has proven that there are several factors associated with an increased risk of homicides (murders) of women in intimate partner domestic violence relationships. This bench guide is not intended to predict what will happen in any given case; it is an informational tool for your consideration as you review a case and become aware of the extent to which the evidence reveals how many lethality factors (danger of homicide) are present. This bench guide is not a substitute for judicial experience, knowledge, skills, and intuition.

Pending/Prior:

Protection Order, Criminal History Check, Registered Firearms Check

Lethality Factors - Factors in this column are given more weight in descending order.

Does the alleged perpetrator own a gun ?	Yes	No
Does the alleged perpetrator use any of these illegal drugs : “uppers” or amphetamines, Meth, speed, angel dust, cocaine, “crack,” street drugs, or mixers?	Yes	No
Has the physical violence increased in severity or frequency over the past year?	Yes	No
Is the alleged perpetrator an alcoholic or problem drinker ?	Yes	No
Has the alleged victim left the alleged perpetrator after they lived together during past year	Yes	No
Does the alleged perpetrator try to control most or all of the alleged victim’s daily activities ? (i.e., tells victim when to see friends or family or how much money to spend)	Yes	No
Is the alleged perpetrator unemployed ?	Yes	No
Is the alleged perpetrator violently and constantly jealous of the alleged victim? (i.e., “If I can’t have you, no one can.”)	Yes	No
Has the alleged perpetrator ever used or threatened the victim with a lethal weapon ?	Yes	No
Has the alleged victim been beaten by the alleged perpetrator while pregnant ?	Yes	No
Has the alleged perpetrator ever threatened to kill the victim ?	Yes	No
Has the alleged perpetrator ever threatened or tried to commit suicide ?	Yes	No
Has the alleged perpetrator avoided being arrested for domestic violence ?	Yes	No
Has the alleged perpetrator ever threatened to harm the alleged victim’s children ?	Yes	No
Does the alleged victim have a child that is not the alleged perpetrator’s child ?	Yes	No
Does the alleged victim believe that the alleged perpetrator is capable of killing her/him?	Yes	No
Has the alleged perpetrator forced the alleged victim to have sex when the victim did not want to?	Yes	No
Has the alleged perpetrator ever tried to choke/strangle the alleged victim ?	Yes	No
Does the alleged perpetrator follow or spy on the alleged victim, leave threatening notes or messages, destroy personal property or make unwanted calls?	Yes	No
Has the alleged victim ever threatened or tried to commit suicide ?	Yes	No

NOTES: Please note that this checklist of lethality factors is not exhaustive. The listed factors are the ones most commonly present when the risk of serious harm or death exists. The presence of these factors can indicate elevated risk of serious injury or lethality. The absence of these factors is not, however, evidence of the absence of risk of lethality or evidence that any particular judicial action (for example, granting an Order of Protection) should not be taken.

Date:
Package:



Agency Case No.:
Defendant:
Superior Court No.:

Name	File	1 st Page	Pages	Application
EVIDENCE LINK	02_25_2020_EVIDENCE_LINK.pdf	1	1	application/pdf
Audio	02_25_2020_Audio_4.mp3	2		application/octet-stream
Audio	02_25_2020_Audio.mp3	3		application/octet-stream
Audio	02_25_2020_Audio_2.mp3	4		application/octet-stream
Audio	02_25_2020_Audio_3.mp3	5		application/octet-stream

The Butte County District Attorney's Office has an open discovery policy, meaning any and all discovery on a filed case is available for review by the defense – normally through electronic means. To arrange a review, please contact the Deputy District Attorney assigned to the case. Ongoing discovery will be provided to the defense when received by this office.

Physical evidence in the possession of law enforcement is available for review, independent analysis or inspection. If there is a request for review, independent analysis or inspection of any physical evidence, please inform this office in writing and arrangements will be made for the review of such evidence. Physical evidence includes data from phones. Counsel should be aware discovery regarding phones can include a "Cellebrite reader" which may not include all available phone data.

In DUI cases, Intoxilyzer and PAS maintenance and calibration records 30 days before and after the date of the breath test are available by informal request. Such request must be in writing and must include the date of the test, the agency where the test was given, and the serial number (SN) of the Intoxilyzer used. The identity and/or location of confidential informants will not be disclosed except upon an appropriate Court Order. Pursuant to Penal Code § 1054.2, to protect witnesses and victims from danger and harassment, **NO** attorney may disclose, or permit to be disclosed, to a defendant, defendant's family or anyone else the address or telephone number of a victim or witness whose name is disclosed to the counsel pursuant to 1054.1.

There may be recorded material from the jail including phone calls, video calls, text messages, photos, visits and email associated with this case. Any recordings or communications selected for possible use in court will be provided through the discovery process. If defense counsel wishes to review undiscovered recorded jail material, related to this case, please inform this office in writing and arrangements will be made for a review. Note, due to the volume of material, this office does not routinely monitor recorded jail material.

Pursuant to Penal Code §1054.5(b) the People are hereby informally requesting Defense Counsel provide discovery to the People as required by Penal Code Section §1054.3.

Please be advised the People intend to present any and all evidence of prior acts of other sexual offenses, and/or of domestic violence, by the defendant pursuant to Evidence Code §1108 and Evidence Code §1109.

For any additional Discovery requests, please forward a written request to this office.

If you have any technical problems or issues, please contact our DA IS Help Desk message line at (530) 538-4337.



BUTTE COUNTY DISTRICT ATTORNEY MEMORANDUM

“To do Justice, as no one is above the Law, nor beneath its protection”

To: Butte County Law Enforcement Agencies
Attn: Investigation/Evidence/Records Divisions

From: Michael L. Ramsey, District Attorney

Subject: Massive Data File (MDF) Procedure and Phone Dump Files

Date: April 30, 2020

For that last five years, the Butte County District Attorney’s Office has had a Massive Data File (MDF) procedure for the transfer of extra-large electronic media files into our case management system. The definition of a MDF is any single electronic media file over 4 GB in size. The attempted transfer of such massive files chokes our system and we therefore require that such massive files be physically sent/brought to the DA’s Office on a media device (thumb or hard drive).

With more modern processes, the transfer of large data files either through our eProsecutor portal or FTP server has not generally been a problem (the eProsecutor portal can take files up to 4 GB in size). BUT with more modern phones, any “phone dump” or downloading of cell phones (or other electronic devices) will always be over 4 GB. So please note that if any of your investigations involves a phone download, DO NOT attempt to send it electronically to the DA’s office. Note in the investigative reports that such a download has been accomplished and then transfer it onto a media device and get it physically to the DA’s Office. Please attach the case number, description of the downloaded item, and a contact person to the device so that we can return it to your agency for reuse.

Thank you.



BUTTE COUNTY DISTRICT ATTORNEY MEMORANDUM

"To do Justice, as no one is above the Law, nor beneath its protection"

To: Defense Counsel

From: Butte County District Attorney's Office

Subject: Discovery of Massive Data File(s): Approximate size is GB

Date: July 22, 2020

A component of discovery includes a Massive Data File (MDF) which is too large to be transmitted through the normal eDiscovery account. Receipt of a copy of this data will require you to coordinate with the District Attorney's Office, Intake/ Discovery Unit. You will need to provide a media device capable of holding at least GB of data. Examples include flash drives or hard drives. Our office will transfer the MDF to your media device and then contact you with a pick-up time.

To make arrangements to drop off your media device and get the MDF downloaded onto that device, please contact the Districts Attorney's Office, 530-538-7411 and ask to speak with the Intake/Discovery Unit.



BUTTE COUNTY DISTRICT ATTORNEY



MICHAEL L. RAMSEY
District Attorney

MARK MURPHY
Chief Deputy District Attorney

JUAN DIAZ
Chief Investigator

Massive Data File (4 GB or greater) Procedure

1. Receiving MDF file from LEA and Returning Media Device:
 - a. When LEA submits the MDF to the Intake Discovery Unit (I/D)
 - i. LEA must identify MDF by case number, and include a LEA contact person for return of the MDF device.
 - b. I/D shall create and print out a copy of the MDF LEA Receipt form and require the agency representative to fill out the appropriate information and then provide a copy for the LEA. The original shall stay with the MDF device.
 - c. I/D shall email IS informing them a MDF has been received.
 - d. IS shall pick up the MDF and MDF LEA Receipt and copy the MDF to our MDF server and test the MDF to ensure it works and the data is accessible.
 - i. The MDF file shall be named with ICR # and Defendant (or Lead Defendant) name. E.g. BCSO 20-1234 John DOE.
 - ii. If there are multiple MDFs for a case, the naming convention shall be ICR # and (Lead) Defendant name on the main MDF folder. All subfolders will be identified by numbers. E.g. BCSO 20-1234 John DOE #1: John DOE #2, etc. (The LEA naming convention shall remain as the file name.)
 - iii. IS will then complete their portion of the MDF LEA Receipt form with file path and name and file size information filled out and return the MDF device and MDF LEA Receipt to I/D.

- e. When the MDF device and MDF LEA Receipt has been returned to I/D, the following will take place:
 - i. I/D will generate, inside the case, CRIM064 – “MDF Memo to Defense Counsel” and input the the size of media device defense counsel needs to bring.
 - ii. I/D will scan and upload the “MDF LEA Receipt” into the case under the document type “MDF LEA Receipt.”
- f. I/D contacts LEA representative on form to pick up their media device.
- g. NOTE - If there is no case yet uploaded in eProsecutor and we receive a MDF; I/D shall hold the MDF LEA Receipt pending arrival of the case and when the case is uploaded, I/D will upload the MDF LEA Receipt into eProsecutor and generate CRIM064 – “MDF Memo to Defense Counsel.”
- h. NOTE – If there is a case submitted via the eProsecutor Portal and the LEA denotes there is a pending MDF file for the case in a comment section - the LEA will need to denote the file size and I/D will do the following:
 - i. When I/D sees a MDF comment on upload, I/D will generate CRIM064 – MDF Memo to Defense Counsel and input the appropriate information.
 - ii. If a DDA wants the MDF, they will contact the LEA and request the MDF be brought to I/D - if the MDF has not already been brought in - and the process outlined above will take place.
- i. I/D shall store the original media device until the LEA comes to pick it up. The LEA will sign receipt when picking up the media.
 - i. I/D will scan the Final MDF LEA Receipt into eProsecutor under the document type “MDF LEA Receipt” and denotes in the memo field “Final Receipt.”
- j. I/D will store MDF LEA Receipts in a central depository for historical purposes.

2. Discovery of MDFs to Outside Counsel

- a. The assigned DDA, when reviewing their case, will see CRIM064 and MDF LEA Receipt inside the case's file cabinet.
 - i. CRIM064 is the memo to defense counsel.
 - ii. CRIM064 will serve as the DDA's notice there is a MDF for the case.
 - iii. CRIM064 is also a discoverable document and the DDA can disco this out with their discovery to put the defense attorney on notice.
 - iv. NOTE – I/D will be uploading the MDF LEA Receipt into eProsecutor at the same time they generate CRIM064. The presence of the MDF LEA Receipt is notice to the DDA that our office has the MDF and it is housed on our MDF server.
 1. If there is no MDF LEA Receipt inside the eProsecutor file cabinet, the DDA will need to contact the LEA and request the MDF be delivered if appropriate.
- b. When Defense Counsel downloads their discovery, they will see CRIM064 and be alerted there is a MDF for this case. Defense Counsel shall contact I/D to arrange for copying of the MDF.
- c. Defense Counsel's MDF storage device shall be dropped off at I/D and they will be contacted when the MDF storage device is ready for pick-up.
- d. I/D shall obtain a name and contact number of Defense Counsel or their designated representative for completion of "Defense Counsel MDF Receipt."
- e. I/D shall notify IS the media storage device is here for copying the MDF.
- f. IS shall copy the MDF file to media storage device and verify accessibility of the MDF on Defense Counsel's media storage device.
- g. IS will give the media storage device back to I/D. I/D will call the defense contact and notify them the MDF media storage device is ready for pickup. If any questions are asked, I/D must direct Defense Counsel to contact the assigned DDA with any questions.



BUTTE COUNTY DISTRICT ATTORNEY



MICHAEL L. RAMSEY
District Attorney

MARK MURPHY
Chief Deputy District Attorney

JUAN DIAZ
Chief Investigator

{ date }

{ defense attorney name }
{ address }

RE: { name of case and case number }

Dear Mr./Ms. { surname }

The People are in possession of obscene matter that must be disclosed pursuant to Penal Code section 1054.1. You may obtain access to this material in the following manner:

- You may arrange to view the material by contacting the assigned deputy district attorney; or
- You may arrange to receive a copy of the material from the assigned deputy district attorney and will be required to sign an acknowledgement of receipt.

If you choose to receive a copy of the material:

- You will be subject to a protective order limiting duplication and dissemination;
- You must provide a check in the amount of \$300 made out to BCDA.
 - The District Attorney's Office will cash the check.
 - Upon receipt of the check, the DA's Office will provide an encrypted hard drive. The password to the hard drive will be delivered via e-discovery.
- The defense must then make arrangements with the appropriate law enforcement agency to have the obscene images transferred to the encrypted hard drive;
- You must return the encrypted hard drive to the assigned deputy district attorney within six months for destruction of the images. If the encrypted hard drive is returned to District Attorney's Office within six months, the county will mail a check for \$300.00 within two – four weeks.

Any request to use the encrypted hard drive must be made **no later than** _____. The drive **must be returned to the District Attorney's Office by** _____. If the encrypted hard drive is not received at that time, the previously provided \$300.00 will be retained to cover the cost of the encrypted hard drive.

{ assigned DDA }
{ contact info for assigned DDA }

1 MICHAEL L. RAMSEY
District Attorney
2 {assigned DDA}
Deputy District Attorney
3 State Bar # {for assigned DDA}
25 County Center Dr
4 Oroville, CA 95965
(530) 538-7411
5 {email for assigned DDA}

6 Attorneys for Plaintiff

7
8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF BUTTE

10 No. {insert case number}

11
12 THE PEOPLE OF THE STATE OF CALIFORNIA,
13 Plaintiff,

14 v.

15 {insert defendnant's name},

16 Defendant.

**ORDER PERMITTING THE
DISTRICT ATTORNEY TO
DISCOVER TO THE DEFENSE
OBSCENE MATTER DEPICTING
SEXUAL CONDUCT OF PERSONS
UNDER 18 AND SUBSEQUENT
DESTRUCTION ORDER**

17 WHEREAS Penal Code section 1054.1 mandates the prosecution to disclose to the
18 defendant or his attorney all relevant real evidence seized or obtained as part of the investigation
19 of the offense charged; and
20

21 WHEREAS Penal Code section 311.2(e) permits the prosecution to obtain and have
22 obscene matter for prosecution purposes; and
23

24 WHEREAS Penal Code section 311.3(c) permits the prosecution to develop, duplicate,
25 print, or exchange obscene matter depicting sexual conduct of a person under 18; and
26

27 ////

28 WHEREAS Penal Code section 312 provides for the destruction of obscene matter upon

1 the conviction or conclusion of a case;

2

3 THE COURT NOW ORDERS the prosecution to discover any and all obscene matter
4 obtained in the course of the investigation for case number {insert case number} to the defense
5 attorney {insert defense attorney}.

6

7 THE COURT FURTHER ORDERS that these materials not be further duplicated and not
8 to be distributed to any other party including the defendant. A designated defense investigator
9 and/or expert is excepted from this provision. At the conclusion of the case or sentencing,
10 whichever comes sooner, {insert defense attorney} is to return any and all obscene matter
11 received in case number {insert case number} to the prosecution for destruction.

12

13

14

15

16 Dated: _____

17

18

{insert assigned judicial officer}
Superior Court Judge

19

20

21

22

23

24

25

26

27

28



BUTTE COUNTY DISTRICT ATTORNEY



MICHAEL L. RAMSEY
District Attorney

MARK MURPHY
Chief Deputy District Attorney

JUAN DIAZ
Chief Investigator

{ date }

{ case name and number }

ACKNOWLEDGEMENT OF RECEIPT

I, { attorney name } acknowledge receipt of { number of CD's/thumb drive/external hard drive } from { assigned DDA } on { date }.

DOCKET ABBREVIATIONS

A/D	Admit or Deny
ALC	Alcohol
AOC	Appearance of Counsel
Arbuckle	Arbuckle Waiver
AOI	Arraignment on Information
Arrg	Arraignment
AW	Arrest Warrant
BCJ	Butte County Jail
BWH	Bench Warrant Held
BWI	Bench Warrant Issued
CC	Concurrent Sentence
CJ	County Jail
Cont.	Continued
CP	County Prison
CS	Controlled Substances
CX	Complaint
CT	Court Trial
D (or triangle)	Defendant
Dec. AW	Declaration for Arrest Warrant
DC (or D triangle)	Defense Counsel
Dec	Declaration
Dis or Dism	Dismissal

D/S	Disposition / Setting
DV	Domestic Violence
EXT	Extension
EOP	Entry of Plea
FG	Found Guilty
FP	Further Proceedings
FTA	Failure to Appear
FTC	Failure to Complete
FTR	Failure to Report
HRG	Hearing
HTA	Held to Answer
HW	Harvey Waiver
HX	History
IC	In Custody
ISS	Imposition of Sentence Suspended
Info	Information
JT	Jury Trial
Mot	Motion
MS	Mandatory Supervision (aka Split Sentence)

NG	Not Guilty
NTW	No Time Waiver
O	Offer
O/C	Out of Custody
OSC	Order to Show Cause
OTP	Order to Produce
P (or pi symbol)	People
PAC	Plead as Charged
PNC	Plead no Contest
PNG	Plead not Guilty
PNGI	Plead not Guilty By Reason of Insanity
PRCS	Post Release Community Supervision
PRIA	Probation Revoked In Absentia
PROB	Probation
PTC	Pre Trial Conference
POE	Proof of Enrollment
PX	Preliminary Hearing
REST	Restitution
REV	Review
SEN or SENT	Sentencing
SP	State Prison
S+T	Search and Test
SUBS	Subpoena

TAC	Trial Assignment Calendar
T+C	Terms and Conditions
TRC	Trial Readiness Conference
TS	Time Served
TW	Time Waived
TX	Treatment

UTL	Unable to Locate
-----	------------------

VAD	Violation Admit or Deny
-----	-------------------------

VOMS	Violation of Mandatory Supervision
------	------------------------------------

VOP	Violation of Probation
-----	------------------------

VOPRCS	Violation of Post Release Community Supervision
--------	-------------------------------------------------

*(or a star symbol) Is a flag to support staff to accomplish a specific directive (For example,,
“*SUBS” is a directive to issue subpoenas.)

Instructions for Expert Services and Witness Agreements

Updated 12/13/21

To acquire expert services and witnesses in an expedient fashion, the County has authorized the District Attorney to enter into expert services and witness agreements using a short form, one page agreement. The District Attorney's authority is for an amount up to \$5,000.00 in compensation and a period of not more than 90 days from the date of execution. If the services will be for more than \$5,000 or more than 90 days, a standard agreement must be used.

Department Policy: An Expert Services and Witness Agreement must be executed **before** services are provided by the contractor. The date of the execution is the date the agreement is signed by the District Attorney and shall be the start date for the contractor services. In the absence of the District Attorney, the Chief Deputy District Attorney may sign the agreement. Services performed before the date of execution will **not** be paid by the Auditor-Controller. The District Attorney will not allow back dating of agreements.

Form Location: Please contact the administrative support staff to obtain a copy of the form.

Compensation: Compensation shall be stated as the hourly rate. Each agreement must include a total number of estimated hours. The total number of actual hours worked shall not exceed the total number of estimated hours of service stated in the agreement. Compensation shall be reviewed and approved by the District Attorney or Chief Deputy District Attorney.

Information: The full name of the contactor, mailing address, email address and phone number is required.

Processing: After being signed by the contractor and the District Attorney, the prosecutor assigned to the case must promptly deliver the signed document to the DA Financial Analyst. The Financial Analyst will process the agreement with other county departments.

Mileage: The contactor must be informed "travel by car will be reimbursed at the county rate per mile" rather than the contractor's hourly rate or the contractor's hourly rate for driving time.

Attorney responsibility: The prosecutor assigned to the case is responsible for monitoring the expert to ensure the expert does not exceed the total number of estimated hours needed outlined in the agreement. The prosecutor assigned to the case is also responsible for ensuring the agreement is disclosed to the defense pursuant to Brady. For additional attorney responsibilities, see "Invoices for Services" below.

Invoices for Services: Instruct the contractor to send the invoices to the prosecutor assigned to the case. The prosecutor will need to approve the invoice and deliver the invoices to the DA Administrative Analyst. The Administrative Analyst will then process the invoice for payment.

1 MICHAEL L. RAMSEY
District Attorney
2 Deputy District Attorney
3 State Bar No.
25 County Center Dr., Suite 245
4 Oroville, CA 95965
Telephone: (530) 538-7411
5 Facsimile: (530) 538-7071

6 Attorneys for the People of the State of California

7
8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF BUTTE**

10
11 THE PEOPLE OF THE STATE OF CALIFORNIA

No.

12 Plaintiff,

**COOPERATION AGREEMENT
BETWEEN AND BUTTE COUNTY
DISTRICT ATTORNEY**

13 vs.

14 ,

15 Defendant.

Date:
Time:

16
17
18 **A. Parties**

19 This is an agreement between the Butte County District Attorney's Office (District Attorney's Office)
20 and to record the commitments made by both parties regarding 's cooperation with law
21 enforcement.
22

23 is presently represented by Attorney , who is aware of and consents to this agreement.
24
25
26
27
28

1 **B. Constitutional Rights**

2 understands that he has certain constitutional rights which are set forth below:

3 **Right to silence:** has been advised by the District Attorney's Office and by his attorney he
4 has the right to remain silent and does not have to answer any questions or make statements of
5 any kind to members of law enforcement in connection with any investigation. By entering
6 into this agreement gives up his right to remain silent.

7
8 **Right to counsel:** has been advised that he may contact his current attorney or any other
9 attorney for assistance at any time this agreement is in effect.
10

11
12 **'s Own Case and Custody Status**

13 **Charged case:** is presently charged in Butte County Superior Court criminal case number with a
14 felony count:, a violation of California Penal Code

15 **Sentencing exposure:** If convicted as charged faces a potential exposure of in state prison.
16

17
18 **'s Commitments and Agreement**

19 makes the following commitments:

20 **Full cooperation:** agrees to testify fully and truthfully in all court proceedings as to his
21 involvement and all other involved persons in all court proceedings including preliminary
22 hearings, grand jury proceedings, pretrial hearings, and any trial in *People v.* . This
23 obligation will continue until full and final resolution of both of the above cases. During the
24 pendency of this agreement, will keep investigators from the District Attorney's Office
25 informed of his current telephone number and address. will keep his attorney's informed of
26 his whereabouts, and agrees to make himself available and accessible on a continuing basis to
27 the District Attorney's Office to facilitate this agreement. agrees to speak with the
28

1 prosecution for any pre-preliminary hearing and pre-trial interviews and answer all questions
2 truthfully and completely. If agrees to speak with the defense prior to trial, he will answer
3 all questions truthfully and completely.
4

5 **Truth:** understands and agrees 's MOST IMPORTANT OBLIGATION UNDER THIS
6 AGREEMENT IS TO TELL THE TRUTH. At all times, must tell the truth when
7 questioned by any member of law enforcement (including probation and parole), any attorney,
8 or any judicial officer. understands and agrees that ANY INTENTIONAL DECEPTION
9 OR DISHONESTY by VOIDS THIS AGREEMENT.
10
11

12 **Use Immunity:** will be granted USE IMMUNITY for any *truthful* information provided to
13 law enforcement or *truthful* testimony related to this agreement.
14

15 **No Immunity:** understands is not entitled to immunity or dismissal of any prosecution of
16 for any crime committed by while this agreement is in effect.
17
18

19 **Disclosure and testimony:** understands and agrees that cooperation will require to offer
20 sworn testimony in a state and/or federal judicial proceeding. understands and agrees that
21 should such testimony be required, will appear at any such judicial proceeding and testify
22 truthfully. Further, understands and agrees 's identity and a copy of this agreement will
23 be provided to all involved defense attorneys, and will truthfully answer all questions.
24

25 **Meetings without attorney:** and his attorney understand and agree 's cooperation will
26 likely involve multiple meetings with law enforcement officers and/or representatives of the
27 District Attorney's Office. and his attorney waive notice to 's attorney of the meetings with
28

1 law enforcement officers and the District Attorney's Office during the period of cooperation,
2 and waive his attorney's presence at meetings with law enforcement officers and/or the
3 District Attorney's Office during the period of cooperation. This waiver does not affect 's
4 right to speak with his attorney at any time during any law enforcement contact that furthers
5 the goals of this agreement. Should request advice from or the presence of his attorney, all
6 conversations with law enforcement officers and/or representatives of the District Attorney's
7 Office shall cease, to allow to contact his attorney.
8

9
10 **'s conviction voids agreement:** understands and agrees that should be convicted for
11 violating any state or federal law this agreement shall be null and void.
12

13 understands and agrees that failure to truthfully answer any and all questions from law
14 enforcement (including parole, probation and federal agents), prosecutors, defense attorneys
15 or defense investigators will void this agreement.
16

17
18 understands and agrees that failure to appear in court and testify truthfully in any state
19 and/or federal judicial proceeding will void this agreement.
20

21 understands and agrees that he must keep the Butte County District Attorney's Office
22 advised of his whereabouts and contact information for the duration of his probationary
23 period.
24

25
26 **E. "Voids" and "Null and Void" defined:**

27 understands and agrees that "voids this agreement" and "null and void" means will forfeit **any**
28 benefit contemplated by this agreement. In such instance, any guilty plea(s) and/or admission(s)

1 entered by pursuant to this agreement will be withdrawn at the request of the District Attorney's
2 Office. Also, the original charging document that was effective at the time of 's plea(s) and/or
3 admission(s) pursuant to the terms of this agreement will be re-instated in its entirety and the
4 prosecution of will re-commence as if this agreement never existed.

5
6 **'s Benefits and**

7 **District Attorney's Office Commitments**

8 understands and agrees is entitled to ONLY the benefits and commitments set forth below:

9
10 On March 20, 2019, the following disposition on case number will occur:

11 **Plea Agreement:** will enter a plea of guilty to , in violation of Penal Code section , a
12 felony, and , a violation of California Penal Code section , a felony. exposure is
13 months in state prison. will stipulate to the term of years state prison. The District
14 Attorney's Office will move to strike the other charge and the special allegations charged in
15 the complaint with a Harvey Waiver.

16
17
18 **Sentencing:** agrees to continue his sentencing until full and final resolution in *People v.* ,
19 presently Butte County case number .

20
21 **Housing:** understands there is no agreement regarding his custodial status.

22
23
24 **No Other Agreements Apply:** There is no cooperation agreement or promise of any kind between the
25 District Attorney's Office and other than those described in this document and any attachments to this
26 document.

27 **understands agreement:** All parties to this agreement acknowledge by their signature that they
28 have read the agreement, understand it, have no questions or reservations regarding any provision

1 contained within it, and agree to be bound by each term, commitment and condition set forth within it.

2 Further, all parties to this agreement acknowledge that this agreement was entered into knowingly,
3 intelligently, and voluntarily.

4
5 _____
6 DATE

7 _____
8 DATE

9 _____
10 DATE DEPUTY DISTRICT ATTORNEY

OFFER

Court Number:
Agency Number: _____

Defendant: may plead to the charges as follows:

FELONY OFFER	
	OTHER:
PLEAD AS CHARGED WITH NO IMMEDIATE STATE/COUNTY PRISON. Any such plea is subject to the “waiver of county lid” provisions as set forth in <u>People vs. Vargas</u> 223 Cal.App.3d 1107 (1990) such that it is an express provision of the plea agreement that defendant will receive a state/county prison commitment if he or she willfully fails to report to probation or for a court appearance, or if he or she commits any felony or misdemeanor offense while awaiting sentencing.	
PLEAD AS CHARGED. THE PEOPLE WILL NOT AGREE TO A COUNTY LID.	
Felony offers expire at calendar call on the first date of the preliminary examination. If a global offer is extended in the “OTHER” column above, the global offer supersedes any offers previously extended to Defendant as to any unresolved criminal matters pending before the Butte County Superior Court.	

ALL PLEA AGREEMENTS SHALL INCLUDE A STIPULATION TO RESTITUTION AND ASSET FORFEITURE.

This offer: IS a package offer with co-defendants.
 IS NOT a package offer with co-defendants.

FURTHER TERMS OF THE PLEA AGREEMENT SHALL INCLUDE:

- a. Waiver of appeal on all issues other than sentencing error;
- b. Waiver of the right to challenge the constitutional validity of any alleged prior convictions, including strikes;
- c. *Harvey* waiver as to all dismissed counts and stricken allegations;
- d. Stipulation to the destruction of any weapons seized;
- e. Waiver of the right to make a 17(b) motion at or before sentencing or while on probation;
- f. On narcotics cases, a stipulation to asset forfeiture of any cash or property seized; and
- g. Any other terms and conditions set forth by agreement of counsel.

Dated: _____



BUTTE COUNTY DISTRICT ATTORNEY



MICHAEL L. RAMSEY
District Attorney

MARK MURPHY
Chief Deputy District Attorney

JUAN DIAZ
Chief Investigator

Stipulated Sentences Procedure

6/14/19

To satisfy 1203c and the classification information requirements of CDCR, follow the steps outlined below when sentencing a defendant to a **stipulated CDCR commitment**. This process outlined below is not necessary for non-CDCR sentences.

The primary advantage of stipulated sentences is speed. When properly done, a stipulated sentence saves time, energy and effort for the court, the People and probation. Stipulated sentences also serve to expedite a defendant's transfer from jail to CDCR which assists the jail.

1. Waiver. When a stipulated sentence is imposed, please ask the defendant waive his right to be interviewed by probation.
2. Victim impact statement. Tell the court if the victim wants to be heard prior to plea or sentencing. This will require the DDA communicate with the victim prior to plea or sentencing to determine if the victim wishes to provide a written or oral statement to the court.

The Victim's Bill of Rights outlines extensive protections for victims including "reasonable notice of all public proceedings" and the right to be heard at "any" proceeding involving "plea, sentencing" or "any proceeding in which a right of the victim [restitution] is at issue." (California Constitution, Article I, Section 28(b)(7) and (8).

If the victim does wish to communicate with the court, please ensure the victim is present at the plea or continue sentencing for a short period to provide the victim the opportunity to communicate. The communication can be in writing or in person.

3. Restitution. Restitution information should be available at the time of sentencing. The restitution process will be expedited with the filing DDA forwards a restitution letter to the victim or victims at the time of filing. To ensure restitution is ordered, reserving restitution to address at a later date is discouraged. If reserving restitution is absolutely necessary, please have the defendant waive his or her right to be present and request a specific restitution hearing date from the court.

The Victim's Bill of Rights states restitution "shall be:" ordered in every case where the victim suffers a loss. (California Constitution, Article I, Section 28(b)(13)(A) and (B).)

4. Documentation. Probation will obtain a detention declaration, an arrest warrant or preliminary hearing transcript to provide to the court and ultimately CDCR. This office will promptly assist probation in securing any of the three items listed above. Probation will ensure all contact or personal ID information is redacted from any documents sent to the court and ultimately, CDCR.

The police report will not be sent to the court or CDCR in an effort to ensure victim contact information remains confidential pursuant to Penal Code Sections 1203c(d)(3) and 1054.2. If the court requests a police report, please forward the request to CDDA Murphy.

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Asset Forfeiture FAQ

Below are frequently asked questions by DDAs who have criminal cases with companion Asset Forfeiture matters. These questions usually arise at a time when the DDA needs a quick answer. For example, the DDA receives a call from an officer who is out in the field conducting an investigation, DDA is in the middle of filing the criminal case, or the DDA is resolving the criminal case in court. The purpose of this FAQ is to provide DDAs with a resource to their common questions that they can access at any time and receive quick answers.

Pre Filing

1. An officer has called me and asked for authorization to seize money from someone they are arresting, what do I do?
 - a. Tell the officer to call the Asset Forfeiture DDA (currently Joshua Owen (707) 580-0329)
 - b. What if the officer can't reach the AF DDA?
 - i. Call DDA Ashley Furry - (530) 514-8919;
 - ii. Call DDA Tyler Vercruyssen - (530) 514-8390;
 - iii. If none of the DDA's are available, then CDDA Mark Murphy - (530) 966-8021
2. The report in my case says that the officers took money, but there is no stipulation in the file.
 - a. If the amount of money is over \$1,000, contact the AF DDA or Tina Casaulong to see if there is an associated AF case. We do not pursue AF if the money to be seized is under \$1,000.
 - b. Sometimes officers seize money as evidence but Asset Forfeiture isn't appropriate. Thus, it is possible money was taken as evidence and Asset Forfeiture was declined. Confirm with the officer whether the money was seized for Asset Forfeiture or as evidence.

Resolving The Criminal Case

1. The defense attorney wants to resolve the criminal case and says the defendant wants part of the money back OR the defense attorney says some of the money came from a legitimate source, what do I tell them?
 - a. "I cannot ethically negotiate the asset forfeiture case and the criminal case. Please contact the AF DDA to discuss alternative resolutions regarding asset forfeiture."
 - b. *****DO NOT NEGOTIATE ASSET FORFEITURE*****
2. The defendant wants to plead to a non-drug sales charge. Can I change the offer?
 - a. Possibly. Check with the AF DDA to see if a plea to the drug sales charge is required.
 - b. If the defendant does not want to stipulate to AF then there should be no offer. DO NOT dismiss the drug sales charges without a stipulation to AF.
3. This is a co-defendant case and I want to resolve it by having one defendant pled and dismissing the case against the other.
 - a. As long as one defendant pleads and BOTH defendants sign a stipulation, you can dismiss the criminal case against them, if that is how you would like to resolve your criminal case. DO NOT dismiss a case against a co-defendant without a stipulation to AF.

4. I need to dismiss the criminal case in its entirety, what do I do about AF?
 - a. Tell the AF DDA **IMMEDIATELY**. The money will need to be returned ASAP. We **DO NOT** forfeit money if we are dismissing the criminal case against someone (exception: co-defendants, see above).
 - b. **NEVER** dismiss a criminal case for a stipulation to asset forfeiture. **This is against our office policy**. It is also highly unethical. We do not forfeit someone's money if we cannot prove a criminal case against them.

5. Defendant wants to plead as charged, open, and not stipulate to AF. Can they do this?
 - a. Yes. If a defendant pleads as charged, then it is no longer a negotiated disposition. We cannot stop them from pleading as charged. We cannot stop them from refusing to stipulate to forfeiture.

Signing and Submitting the Stipulation to Asset Forfeiture

1. The defendant is pleading and agreed to stipulate to asset forfeiture. What do I do?
 - a. Have the defendant and defense attorney sign the stipulation
 - b. Sign the stipulation yourself
 - c. Give the stipulation to the clerk and have the stipulation filed in the criminal case
 - d. Immediately notify the AF DDA or paralegal that the stipulation was signed and filed
 - e. The AF DDA or paralegal will handle filing of the forfeiture order

2. The defense attorney needs a copy of the stipulation to have the defendant sign outside of court OR needs an electronic copy to email to the defendant OR lost the copy you gave them. What do I do?
 - a. Check the file cabinet of your case. There should be a PDF version of the stipulation in Epro. You can either email the PDF to defense or print a hard copy for them.
 - b. **DO NOT** send an editable (Microsoft Word) version of a stipulation to the defense.
 - c. If you send an electronic copy of a stipulation to the defense attorney, and they provide you with a signed copy, **ALWAYS** review the copy to ensure it is **IDENTICAL** to the stipulation in Epro. Defense attorneys have provided us with altered stipulations in the past.

3. The defense attorney doesn't want to sign the stipulation because they are not representing the defendant in the asset forfeiture matter.
 - a. Inform the defense attorney that their signature is required. They are signing to indicate that they explained the stipulation to their client and agree with their client's choice to stipulate to forfeiture (it is the same as when the defendant pleads and the defense attorney states they advised their client and agree with the choice to plead). The defense attorney's signature does **NOT** mean that they are assuming representation of the defendant in the asset forfeiture case.
 - b. **If the defense attorney refuses to sign the stipulation then the case cannot be resolved.**

The Criminal Case Is Set For Jury Trial

1. The criminal case is set for jury trial, what happens with the forfeiture case?
 - a. Immediately notify the AF DDA as soon as a case with AF is set for trial.
 - b. Under certain circumstances the forfeiture case has to be heard by the same jury as the criminal case. If those circumstances apply in your case the AF DDA will need to set the AF case for trial on the same dates and participate in the trial with you.



BUTTE COUNTY DISTRICT ATTORNEY



MICHAEL L. RAMSEY
District Attorney

MARK MURPHY
Chief Deputy District Attorney

JASON WINES
Chief Investigator

On Call DDA Procedure

May 15, 2022

The duty of the On Call Deputy District Attorney is to be immediately available to review search warrants, Ramey warrants and to address urgent law enforcement questions during non-work hours, holidays and weekends.

Eligible DDAs will be assigned to On Call shifts of one week in duration – starting Thursday at 5:00 PM and ending the following Thursday at 8:00 AM. A dedicated On Call cell phone with a number published to all Butte County law enforcement will be assigned to the rotating On Call DDAs. At the end of the On Call week, the On Call DDA will be responsible for passing the On Call phone to the next On Call DDA.

The On Call phone must be in the immediate presence of the assigned On Call DDA during the On Call shifts. If the On Call DDA is unavailable due to trial or an unexpected event, the On Call DDA is responsible for finding coverage and passing the On Call cell phone to a replacement On Call DDA.

At the end of an On Call shift, the DDA will be responsible for promptly completing the On Call (aka standby pay) in Workday. If the Workday timecard is not promptly completed, the On Call pay (aka stand by pay) may be forfeited.

To be On Call and receive stand by pay, the Deputy District Attorney must meet the following minimum criteria:

1. The DDA must be assigned to a felony caseload or be a Supervising Deputy District Attorney.
2. The DDA must have attended a CDAA search warrant training class.
3. The DDA must have read both the CDAA search warrant manual and the LADA search warrant manual.
4. The DDA must attest in writing they have satisfied conditions 2 and 3 and provide the written statement to the Butte County District Attorney's human resources administrative representative.
5. The DDA must live in an area with reliable cell phone service.

The District Attorney expressly reserves the right to assign or remove DDAs to on call shifts.

Compensation amounts for On Call shifts (aka stand by pay) and the definition of a shift appear in the July 2021 "Side Letter Agreement" between Butte County and the Deputy District Attorneys' Association, section 8.03.

During an On Call shift, the assigned DDA must:

1. Remain in the Northern California region.

2. Ensure the On Call phone remains charged and ready to accept calls.
3. Remain in an area with reliable cell phone service.
4. Refrain from alcohol or any other substance, which may impair, hinder or slow thought, communication or analysis.
5. When contacted by law enforcement, promptly return any calls, texts or other communication.
6. Have prompt access to appropriate research resources including the CDAA search warrant manual, the LADA search warrant manual, CALCRIM and CEB.

For any warrants or questions about homicides or officer-involved shootings, the On Call DDA must direct law enforcement to contact the District Attorney or the Chief Deputy District Attorney. If the On Call DDA receives a request to release a suspect due to medical issues, the On Call DDA should direct law enforcement to contact the District Attorney or the Chief Deputy District Attorney. If both the DA and CDDA are unavailable, law enforcement should be directed to a Supervising Deputy District Attorney.

For asset forfeiture approval, the On Call DDA should direct law enforcement to the assigned BCDA asset forfeiture prosecutor, the DA or the CDDA.

For approval for an individual to work as a confidential informant, the On Call DDA must direct law enforcement to contact the CDDA or if the CDDA is unavailable, the DA.

If the On Call DDA encounters questions or problems he or she is unable to answer or is unsure of the proper advice, the On Call DDA should direct law enforcement to a prosecutor with the necessary expertise and experience to address the issue.