



KERN COUNTY PROBATION DEPARTMENT

Policies And Procedures

TITLE: Firearms General			Article: 1701
APPROVED: William Dickinson, Chief Probation Officer			
EFFECTIVE: August 2018	REVIEWED: August 2018	REVISED: September 2024	UPDATED: August 2018

DUTY

As used in this and other Sections in this manual, “Duty” is defined as follows:

A sworn probation employee is considered “On Duty” during the scheduled hours of his/her scheduled work day. Those scheduled hours are further defined as “Duty Hours.” During unscheduled hours or days, an officer is considered “Off duty.”

Only a Division Director, Deputy Chief Probation Officer or the Chief Probation Officer can call a sworn probation employee to duty during that officer’s unscheduled hours. An officer cannot call himself/herself back to duty unless at the end of that officer’s scheduled work day he/she is engaged in an authorized probation activity that cannot be interrupted such as an arrest, booking or other situation that requires the officer’s continued presence. In such situations, the authorization to extend “On Duty” hours is implied and consent need not be sought. However, the officer must report such occasions to his/her immediate supervisor by the following work day.

POLICY

- A. In the course of their duties, probation officers are required to deal with identifiably hazardous situations and to supervise violent and aggressive probationers. The purpose of this policy is to regulate the manner in which sworn probation employees carry and/or use firearms as a means of defense.
- B. The permission to carry firearms while on duty does not indicate, in any way, that sworn probation employees are being given additional jurisdiction as to offenders and offenses. The authority of sworn probation employees shall extend only to conditions described in Penal Code Section 830.5. A sworn probation employee is not to engage in hazardous activity solely because the sworn probation employee is armed. Peace officers are forced to make split second decisions in circumstances that are tense, uncertain, and rapidly evolving. Before deciding the use of deadly force is necessary, the officer must analyze the facts and circumstances known to the officer at the time. The officer must consider whether the actions of the suspect are likely to result in the serious injury or death of an officer or a victim of a crime.

- C. No officer of the Kern County Probation Department will be permitted to carry any firearm while on duty, either on his person or in a County vehicle, or to have any firearm in the office or job location unless there is prior and specifically expressed approval by the Chief Probation Officer or his/her designee.
- D. In the absence of the Chief Probation Officer, the Deputy Chief Probation Officer may temporarily authorize the carrying of a firearm.
- E. The Chief Probation Officer may revoke the authorization to carry a firearm at any time at his/her sole and absolute discretion.
- F. Assignment to a position which requires the carrying of a firearm is voluntary for those officers hired prior to January 1990.
- G. Officers are authorized to carry only Department-issued firearms while on duty, unless there is prior and specifically expressed approval by the Chief Probation Officer or his/her designee.

LEGAL AUTHORITY:

Juvenile Corrections Officers (JCO) are named as peace officers under Penal Code (PC) Section 830.5(b).

Because custodial officers are limited in their ability to arrest and use force, PC 831.5 provides clarification. Juvenile Corrections Peace Officers already have their authority explained in PC 830.5. Therefore, no further status is needed. Use of force is covered in PC 835a and included in Title 15, article 5, section 1357 for custodial use in juvenile institutions.

Probation officers and sworn employees are classified as peace officers in Section 830.5 of the Penal Code. They may carry and use firearms while on duty if authorized by the Chief Probation Officer subject to the terms and conditions of Department policy

- A. Peace officer powers of a probation officer are limited under Section 830.5(a) to:
 - 1. The conditions of parole or of probation by any person in this state on parole or probation.
 - 2. The escape of any inmate or ward from a state or local institution.
 - 3. The transportation of persons on parole or probation.
 - 4. Violations of any penal provisions of law which are discovered while performing the usual or authorized duties of his/her employment

5. The rendering of mutual aid to any other law enforcement

“Probation” as used in this section includes any person on post-release community supervision and mandatory supervision.

- B. Section 196 of the California Penal Code is the governing statute relative to justifiable homicide by public officers and is quoted herewith:

Penal Code Section 196 – Killing in Performance of Official Duty Justifiable

Homicide is justifiable when committed by public officers and those acting by their command in their aid and assistance, either:

1. In obedience to any judgment of a competent Court; or
2. When necessarily committed in overcoming actual resistance to the execution of some legal process or in the discharge of any other legal duty; or
3. When necessarily committed in retaking felons who have been rescued or have escaped, or when necessarily committed in arresting persons charged with a felony, and who are fleeing from justice or resisting such arrest. (*) Note: The Appellate Courts have interpreted the arrest portions of this subsection to apply only in the case of violent and atrocious felonies.

USE OF FIREARMS

- A. It is the policy of the Kern County Probation Department to permit the use of firearms by authorized officers when it appears to be reasonably necessary as provided by law, and generally:

1. As a means of self-defense from death or serious injury
2. To defend the life of another officer from death or serious injury
3. To defend the life of a victim of a crime from death or serious injury
4. To prevent a crime in which human life is in serious jeopardy as a result of a suspect's action
5. To apprehend a fleeing suspect if the officer has reason to believe that such suspect is an immediate and deadly threat to others or whose escape, the officer has reason to believe, will result in jeopardy to the lives of others

- B. Warning shots are prohibited.
- C. Under normal circumstances, firing at or from a moving vehicle is prohibited. Such action should only be taken in extreme situations and only when at least one condition enumerated in the above, Use of Firearms, Section (A) 1-5 exists.
- D. As a general policy, firearms should remain holstered unless there is sufficient justification for unholstering. Such justification shall include but not be limited to:
 - 1. In effecting the arrest of felony probationers or felony suspects when necessary for officer safety.
 - 2. In effecting the arrest of individuals who may be in possession of weapons.
 - 3. In effecting the arrest of Juvenile Court Wards when necessary for officer safety.
 - 4. There are facts and circumstances known to the officer at the time which lead the officer to believe there is a potential risk of serious injury or death of an officer or a victim of a crime.

DEPARTMENTAL AUTHORIZATION

- A. Assignment-Related Authorization
 - 1. To be authorized to carry a firearm, the probation officer must:
 - a. Satisfactorily complete firearms training pursuant to Section 832 of the Penal Code.
 - b. Satisfactorily complete the Probation Department Introductory Firearms Course.
 - c. Receive written authorization from the Chief Probation Officer.
 - 2. Officers assigned to an armed position must complete the "Application for Authorization to Carry Firearm While on Duty" form and route it through appropriate channels to the Chief Probation Officer.
 - 3. Officers not assigned to an armed position must complete the "Application for Authorization to Carry Firearm While on Duty" form and route it through appropriate channels to the Chief Probation Officer.
 - 4. It is the responsibility of the Field Training Coordinator to designate a Field Training Officer. The assigned Trainee will enter the Field Training Program

and must successfully complete the Field Training Program before being allowed to engage in field activity without direct supervision of a Field Training Officer. Please refer to the Field Training Program.

B. Emergency Authorization

1. Any officer may request emergency authorization to carry a firearm on duty. The request must state, in writing, the reasons for the request and must be routed to the Chief Probation Officer through the appropriate chain of command.
2. After review, the Chief Probation Officer may deny the request or may approve it subject to any terms and limitations which the Chief Probation Officer deems appropriate to the situation.
 - a. Approval or denial of the request will be in writing to the officer with a copy for the personnel file of the officer.
3. Any officer who is granted emergency authorization to carry a firearm may be issued a Department firearm at the discretion of the Chief Probation Officer and must qualify and complete any additional training as deemed necessary before carrying the firearm on duty.
4. Until such time as emergency authorization is withdrawn, the officer will be subject to the same policy and proficiency requirements as other armed officers.

RESTRICTIONS

A. On-Duty Restrictions:

1. No firearm may be carried on duty by a sworn probation employee who is otherwise authorized to carry a firearm on duty when:
 - a. In a condition resulting from the use of alcohol or medication when the employee's motor skills, reflexes, or judgment could be affected. The employee shall notify his/her immediate supervisor if any substance has been consumed which may impair the employee's faculties during working hours.
 - b. Authorization has been withdrawn.

B. Off-Duty Restrictions:

1. In Opinion No. 89-505 issued in 1989, the California Attorney General concluded a county probation officer cannot preclude deputy probation

officers who are peace officers under Penal Code Section 830.5 from carrying a personal firearm while off-duty. Therefore, it is the policy of this Department that:

- a. Any consequence or liability arising out of any act or incident involving any personal or department issued firearm during off-duty hours shall be the sole, personal responsibility of the officer taking the action or involved in the incident.
 - b. No such action or incident shall be deemed official, permitted or authorized as an exercise of the peace officer authority provided for in Penal Code Section 830.5.
 - c. Any misuse of any personal or department issued firearm, criminal or otherwise, by an employee of this Department shall subject the employee to discipline up to and including termination.
2. On July 22, 2004, President George W. Bush signed H.R. 218, the Law Enforcement Officers Safety Act, into law. The bill exempts qualified active and retired law enforcement officers from local and State prohibitions on the carrying of concealed handguns off duty.
 3. This policy shall apply to any employee of this Department designated as a peace officer pursuant to Penal Code Section 830.5.
 4. Probation officers may carry their Department firearm off-duty if approved by the Chief Probation Officer. When carrying their Department issued firearm off-duty, it shall be mandatory officers carry their Department badge and identification card and the firearm must be concealed.

AUTHORIZED FIREARMS AND AMMUNITION

A. Equipment

1. Authorized staff may only carry firearms and ammunition issued by the Probation Department unless there is prior and specifically expressed approval by the Chief Probation Officer or his/her designee. Any officer who is granted approval to carry a non-issued firearm must qualify with the firearm and complete any training as deemed necessary before carrying the firearm on duty.

B. Firearms

1. Firearms which are the property of the Kern County Probation Department and approved for issue to authorized staff are:

- a. The Glock Model 22 or 23-.40 caliber semi-automatic.
- 2. The Range Master will maintain records which identify each Probation Department firearm and to whom each firearm is issued.
- C. Ammunition
 - 1. Authorized officers shall carry their duty firearm fully loaded with Department approved ammunition.
- D. Magazines
 - 1. Three magazines will be provided to each officer. One will be carried loaded in the firearm and two will be carried in a departmentally approved pouch. Each magazine shall be fully loaded to Department specifications.
- E. Holsters
 - 1. The Department will provide holsters for issued duty weapons. Any other holster or device for carrying a firearm must be approved by the Range Master. Any alteration shall be approved by the Chief Probation Officer through the Range Master.
- F. Use of Personal Equipment
 - 1. The Department will not be responsible for any reimbursement of personal equipment which is lost or damaged.
- G. Equipment Alterations
 - 1. No alterations may be made to the firearm and/or ammunition issued by the Department without approval of the Range Master.
- H. Use of Other Firearm
 - 1. Only the approved Department-issued firearm will be authorized for an officer's use while on duty, unless there is prior and specifically expressed approval by the Chief Probation Officer or his/her designee.
 - 2. Only in an immediate life-threatening situation will an officer be permitted to use another sworn probation employee's or other law enforcement officer's firearm.
- I. Backup Weapons

A backup weapon is a secondary handgun carried concealed on the officer's person, to be used during an emergency when the officer's standard duty pistol is lost, out of ammunition, broken, or otherwise unavailable. Only officers with prior and specifically expressed approval by the Chief Probation Officer or his/her designee are authorized to carry backup weapons while on duty. All backup weapons must be inspected and approved by the Range Master.

- a. Acceptable calibers include: .380, .38, .357, 9mm, 10mm, .40, .44 and .45.
- b. Ammunition carried in backup weapons must be approved by the Range Master.
 - i. Only factory ammunition will be approved. (No reloads).
 - ii. .41 Magnum and .44 Magnum loads will not be approved for backup weapons.
- c. Backup weapons must be carried concealed in a secure location. Carry methods shall be approved by the Chief Probation Officer through the Range Master. For the purpose of backup weapon holsters, retention will be based on the location and retention during possible movement in emergency situations.
- d. Officers must qualify with their backup weapon a minimum of one time per year, on a course of fire approved by the Range Master. Carry methods shall be displayed and approved during the initial qualification or upon any updates regarding this policy.
- e. Officers carrying a firearm in calibers other than those issued by the Probation Department are responsible for providing their own ammunition for both qualification and duty use.

Officers are responsible for repairs made to, maintenance, damage to, or loss of personally owned backup weapons.

FIREARM SAFETY AND STORAGE

- A. Persons authorized to carry firearms shall observe and practice the following safety regulations:
 - 1. Firearms shall not be carelessly handled at any time.

2. Firearms shall not be dry fired, cleaned, loaded or unloaded in any unsafe manner. Cleaning should normally take place at the firing range or at home.
 3. No firearm shall be used to strike another person unless it cannot be fired, or it must be used in the defense of the life of the officer or another.
 4. Any unholstered firearm brought into the Probation Department shall be unloaded and transported with the action open.
 5. When not being worn, firearms and ammunition shall be secured in either a locked desk, vehicle as specified below in Section C, or a locked gun storage area.
- B. Firearms shall not normally be worn under certain circumstances:
1. When entering any detention facility, firearms shall be secured in gun lockers which are designated as such or in a vehicle as specified in Firearm Safety and Storage, Section C of this policy.
 2. Firearms shall not be worn in any facility or area where such weapons are specifically prohibited such as in airport boarding areas.
 3. Firearms shall not be worn in any Court room or Court chamber unless permission of the Court has been previously obtained.
 4. When firearms are not concealed, the officer's badge must be prominently displayed, and OC spray shall be worn. Under certain circumstances, firearms should be worn in such a manner as to be concealed from public view. Clothing worn to conceal the firearm must be appropriate and proper peace officer identification must be carried.
- C. Each armed officer will be responsible for the firearm which has been issued to him or her.
1. Reimbursement to the Department for loss or negligent damage will be the officer's responsibility.
 2. Any officer who wishes to take off his or her firearm in the field shall store it temporarily in a locked automobile trunk. If the vehicle does not have a trunk, the firearm may be temporarily stored in a locked glove compartment in a locked vehicle. No firearm shall be left in any vehicle if no locking trunk or glove compartment is available. Officers should avoid allowing others to observe a firearm being left in the vehicle.

3. Firearms shall not be stored overnight in any vehicle or in any location accessible to unauthorized persons.
- D. Department issued firearms shall not be carried or used while off-duty unless authorized to do so by the Chief Probation Officer. However, upon prior approval of the Division Director, an off-duty officer may use his or her firearm to practice shooting at a Department-approved shooting range. Officers shall use factory loaded ammunition.
- E. Any negligent discharge or unsafe handling of a firearm may result in that person being subject to disciplinary action.

BODY ARMOR

Probation officers authorized to carry firearms shall wear department issued body armor at all times while on duty and engaged in field activities carrying a firearm, unless otherwise authorized by the Chief Probation Officer or his/her designee.