

**SAN FRANCISCO DEPUTY
PROBATION OFFICERS' ASSOCIATION
P.O. Box 883831
San Francisco, CA 94188-3831**

October 13, 2005

**Juvenile Probation Commission
375 Woodside Avenue
San Francisco, CA 94127**

**RE: Program Committee Agenda, October 19, 2005
Officer Safety (Item #4)**

Dear Commissioners,

It is the position of the elected representatives of the membership of the Deputy Probation Officers' Association that five officers assigned to the Juvenile Probation Department's Serious Offender Unit, with caseloads composed of probationers who have histories of violent criminal behavior, gang activity and weapons possession, should be permitted to arm themselves as a defensive safety measure. The same policies and procedures should apply that have been used successfully by the Adult Probation Department since 1999 without incident. (Please see the attachment.)

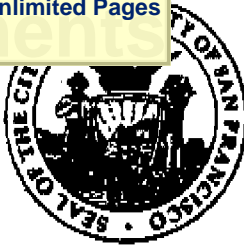
The Commission is respectfully requested to take note of the fact that the *unarmed* officers assigned to the Juvenile Probation Department's Serious Offender Unit and *armed* officers of the Adult Probation Department's Intensive Supervision Unit enter the same neighborhoods and public housing projects (sometimes the same living units) to conduct their searches and curfew checks. At times, they share members of the same families on their respective caseloads, and, in some cases, the same individuals. They are generally accompanied by, and work in conjunction with, the same details of the San Francisco Police Department, including the Gang Task Force.

In other words, the officers of each Department assigned to the special units mentioned above are exposed to the same potential for violent assault because of the high incidence of violent crime in the locations they must necessarily visit and the intrusive nature of their contacts with adjudicated felons, juvenile and adult. It is logical and practical that officers exposed to the same level of risk should be permitted the same access to protective equipment as authorized by California Law.

Respectfully Submitted,



**Rich Perino, President
(415) 753-7679**



ADULT PROBATION DEPARTMENT

MEMORANDUM

TO: All Supervisors

FROM: Armando Cervantes, Chief

DATE: September 1, 1999

SUBJECT: New Policy & Procedure Statement #104.07
Firearms Policy

Attached is a new Policy and Procedure Statement No. 104.07 on Firearms Policy. This policy and procedure was prepared in consultation with several supervisors and division directors.

Please share the information in the policy with your staff. Please enter it in your index and file it in the appropriate section of your Policy & Procedure manual.

Thank you.

AC:hbm
p&presfc.doc

cc: Carmen Bushe, Division Director, Community Services Specialized
Roy Ellender, Division Director, Investigation
Candace Hill, Division Director, Community Services Outreach
Lee Samson, Business Manager

**SAN FRANCISCO ADULT PROBATION DEPARTMENT
STATEMENT OF POLICY AND/OR PROCEDURE
PROGRAM: COMMUNITY SERVICES**

**No. 104.07 Dated 8-12-99
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SUBJECT: FIREARMS POLICY

I. AUTHORITY:

- A. Section 830.5 Penal Code classifies probation officers as peace officers and allows probation officers to carry firearms while on duty if authorized by the Chief Probation Officer and only under the terms and conditions specified in this policy.
- B. Peace officer powers of a probation officer are limited under Section 830.5(a) PC to:
 - 1) the conditions of probation by any person within the State of California on probation;
 - 2) the escape of inmate or ward from a state or local institution;
 - 3) the transportation of such persons; and
 - 4) violations of penal provisions of law which are discovered in the course of and arise in connection with his or her employment.
- C. Any person permitted to carry a firearm pursuant to this policy shall meet the training requirements of Section 832 PC and shall qualify with the firearm at least quarterly. Training and qualification opportunities will be made available through the San Francisco Sheriff's Department.

II. POLICY

It is the general policy of the San Francisco Adult Probation Department that probation officers are not armed. The Chief Probation Officer will entertain requests for exceptions on a case by case basis and will grant permission to an officer to be armed when the Chief Probation Officer determines that it is in the public interest.

- A. In authorizing a particular probation officer to be armed, the Chief Probation Officer does not intend to confer any additional jurisdiction on that officer as to offenders or offenses. Authorization of an officer to carry a firearm on duty is not intended to authorize or direct the probation officer to take actions or steps he is not otherwise required to perform by his/her position. The authorization to be armed is not intended to authorize a probation officer to engage in hazardous activities not otherwise required by the duties of his/her position.
- B. No probation officer may carry a firearm either on his person or in his vehicle, or have any firearm in the office or job location without prior written authorization of the Chief Probation Officer.

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- C. In adopting this policy the Chief Probation Officer does not intend to require any probation officer to apply for authority to carry a firearm.
- D. The Chief Probation Officer may grant authorization to carry a firearm for a specific period of time not to exceed three months. The authorization request is submitted by the requesting probation officer through his/her Unit Supervisor to the Division Director. The signatures of the Unit Supervisor and Division Director indicate they agree with the request. Issuance of said authorization is dependent on the probation officer's successfully completing:
1. psychological testing and interview through the Department's contractual psychological service;
 2. training in the loading, firing and proper circumstances for the use of weapons;
 3. a certified course in restraint training; and
 4. any other training related to the authorization to carry firearms selected by the Chief Probation Officer, who has the ultimate authority for determining an officer's fitness to be armed. This includes initial and subsequent random testing by the training officer regarding the provisions of the Department's firearms policy.

Two weeks prior to the end of the designated time during which an officer has been approved to be armed if he or she believes the need still exists the officer must renew the request.

Renewal requests are subject to the same standards and guidelines as original requests to arm. Timely submissions of renewal requests, when possible and practical, will be reviewed by the Chief Probation Officer prior to the expiration of the authorization on file. After expiration and until a new authorization to be armed for a specified period of time not to exceed three months is signed by the Chief Probation Officer, the Division Director and the Unit Supervisor, the requesting officer not authorized to be armed. No officer may be armed unless there is a current, signed, countersigned authorization for him/her to be armed on file at the Department. In the event the Chief Probation Officer is unavailable during the two-week period after which a renewal request is submitted and prior to the expiration of the current authorization to arm, the person designated by the Chief to be in charge may, after careful review and consideration, grant a temporary signed, countersigned extension of the authorization to be armed, until such time as the Chief Probation Officer is available. The person granting this temporary extension shall call the situation to the attention of the Chief Probation Officer immediately upon his/her return.

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E. Officers will put requests to be armed and renewal requests in writing. The Unit Supervisor will be responsible for assuring that the officer has a copy of the Departmental Firearms Policy, and has thoroughly read and understands the policy. The Unit Supervisor, by signing the authorization, will ensure that the requesting officer meets all requirements for authorization. The Division Director will review and sign all authorization requests. The Chief Probation Officer will then respond to the request in writing. Authorizations to be armed are signed by the Chief Probation Officer, the Division Director, the Unit Supervisor, and the requesting officer in order to assure that the requesting officer possesses and understands the Departmental Firearms Policy and any conditions or restrictions that may attach to the authorization.

All requests to be armed and renewal requests will be accompanied by a San Francisco Sheriff's Department Firearms Qualification Record indicating the requesting officer's performance at the range and if he/she successfully qualified.

- F. All correspondence requesting, authorizing, and/or denying authorization to be armed will be maintained by the Probation Department in the probation officer's personnel file, with copies to the officer, the Unit Supervisor, and the Division Director.
- G. The Chief Probation Officer may revoke the authorization to carry a firearm at any time, without specifying any grounds therefore and without any prior notice to the probation officer and/or hearing. The Chief Probation Officer's decision to revoke the authorization to be armed shall be final and shall not be subject to appeal, review, the meet and confer process, grievance or arbitration. The Chief Probation Officer may revoke authorization orally or in writing.

III. **PROCEDURE:**

- A. An officer who seeks authorization or renewal of authorization to be armed shall submit the request in writing to the Chief Probation Officer, through the Unit Supervisor and Division Director. The request must indicate the reason why the officer needs to be armed. A sample authorization form is attached on page 8 of this policy and procedure.
- B. The Chief Probation Officer will evaluate the request and will provide a decision in writing to the probation officer, either granting or denying the request. The Chief Probation Officer need not make any findings or state any grounds for the decision. The Chief's decision shall be final and shall not be subject to appeal, review, meet and confer process, grievance or arbitration.

IV. **POST AUTHORIZATION STEPS THE PROBATION OFFICER MUST TAKE PRIOR TO CARRYING A FIREARM:**

- A. After receiving authorization to be armed, the probation officer shall be issued a departmental firearm and ammunition specified by the Chief Probation Officer.

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- B. The officer shall provide the Department with the brand name and serial number of the firearm he/she obtains to carry under this authorization.
- C. The officer may not alter or cause to be altered in any manner the firearm he/she has been authorized to carry.

V. RESTRICTIONS FOR CARRYING FIREARMS:

- A. Probation officers authorized to carry and use a weapon on duty may not:
 - 1) Consume alcohol in the eight hours before going on duty while armed, or while on duty, or during meal or rest breaks from duty;
 - 2) Take prescription medication without first telling their doctor that they are authorized to be armed and then obtaining from the doctor a certificate stating that the medication will not impair their faculties while armed.

VI FIREARMS SAFETY AND STORAGE:

- A. Probation officers authorized to carry a firearm are charged with the responsibility for its safe handling and assurance that access to the weapon is limited.
 - 1) Any probation officer authorized to be armed shall carry the firearm in a holster.
 - 2) No probation officer may carry a weapon while in the offices of the Probation Department. Any officer authorized to be armed shall deposit his/her firearm in a locked gun locker upon entering the offices of the Probation Department.
 - 3) A probation officer who is authorized to be armed and who determines that he/she may better perform his duty while unarmed may, while on duty in the field, store the firearm temporarily in the locked truck of his/her automobile.
 - 4) A probation officer may not store a firearm or ammunition in his/her vehicle while it is unattended on the grounds of any correctional facility. While at a correctional facility the officer must store the weapon in the specific area designated by facility staff for safekeeping and temporary storage.
 - 5) The authorization by the Chief Probation Officer for an officer to be armed is only intended to permit the officer to be armed while on duty.

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- 6) If an officer is unable to return his/her weapon to the Department's gun locker at the end of a tour of duty, the officer will be responsible for storing the weapon in a safe and secure location until the next business day.

VII. CARRYING OF FIREARM:

- A. A probation officer authorized under this policy to carry a firearm shall encase the approved firearm in a suitable holster and shall wear or carry the encased firearm in such a manner that it is concealed, not exposed to public view and is not otherwise displayed.
- B. Any probation officer authorized to be armed shall have in his or her possession, whenever carrying a firearm, his or her badge and identification card, and handcuffs.
- C. A probation officer shall, when carrying an authorized and approved firearm, maintain it fully loaded at all times.

VIII. DISPLAY OR USE OF FIREARM:

- A. The following policy shall govern the display and/or use of firearms by probation officers authorized to carry them under this policy.
- B. An authorized probation officer may display or use the authorized firearm when the officer reasonably believes that it is necessary to defend himself/herself or other persons from death or serious injury. The probation officer shall only display or use the firearm to the extent necessary to protect himself/herself or others from death or serious injury.
- C. Warning shots are prohibited.

IX. ACCIDENTAL DISCHARGE OF A FIREARM:

- A. Any discharge of a firearm caused by the failure of an officer authorized to carry a firearm to comply with this firearms policy, or the standards of his/her POST training course, shall provide a basis for disciplinary action including termination.
- B. Any failure of a probation officer to store, carry, display or maintain possession of a firearm in accordance with this firearms policy and the POST training course shall provide a basis for disciplinary action including termination.

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X. REQUIRED REPORTING OF FIREARM DISCHARGE AND/OR UNHOLSTERING, DRAWING OR DISPLAYING OF FIREARM IN COURT OF DUTY:

- A. A probation officer shall report immediately all intentional discharges of his/her firearm, except those at a supervised range or retraining exercise, and all accidental discharges, to the local law enforcement agency with jurisdiction over the location of discharge.
- B. As soon as possible, consistent with the safety of the probation officer, other law enforcement personnel and citizens, the probation officer shall report the incident orally to the Chief Probation Officer. The probation officer shall submit a written report to the Chief Probation Officer no later than close of business on the next business day, with copies to his/her supervisor and the Division Director.
- C. Any probation officer who unholsters, draws or displays his/her firearm shall report it in writing to the Chief Probation Officer no later than the close of business two business days following the incident. The probation officer will give copies of the report to his/her supervisor and the Division Director.

XI. INQUIRIES:

- A. All probation officers to whom questions are addressed by anyone, other than those supervising them, regarding the discharge, unholstering, drawing, displaying or other occurrences relating to a firearm which a probation officer has been authorized to carry under this firearms policy, shall refer said inquiries to the Chief Probation Officer or his/her designee.

XII. RELINQUISHMENT OF FIREARM:

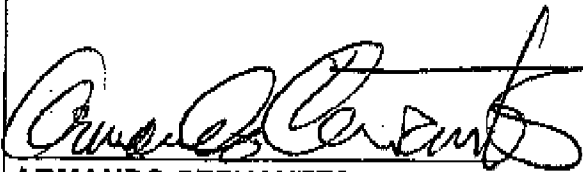
- A. Whenever there is an intentional or accidental discharge of a firearm that a probation officer is authorized to carry, and the Chief Probation Officer or local law enforcement agency requests that the weapon be surrendered, the probation officer shall immediately surrender it to the Chief Probation Officer or local enforcement agency.
- B. When the probation officer has surrendered his/her firearm as described in XII, he/she may request the Chief Probation Officer to authorize him/her to carry another firearm. The officer must qualify with the newly authorized firearm.

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XIII. STOLEN OR LOST FIREARM:

- A. The officer shall immediately file a report with the local law enforcement agency upon discovery that a firearm is missing.
- B. The officer will immediately notify the Chief Probation Officer in writing that a firearm is missing.



**ARMANDO CERVANTES
CHIEF ADULT PROBATION OFFICER**

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ACKNOWLEDGMENT

I, _____, hereby acknowledge that I have read, understood, and agreed to the terms and conditions set forth in the Firearm Policy (Policy No. 104.07, dated 08/12/99).

Signed in the City and County of San Francisco, this _____ day of _____, 1999.

Unit Supervisor

Probation Officer

Officer authorized: _____

Type of Firearm: _____

Type of Ammunition: _____

Date firearm training completed: _____

Date psychological test results achieved: _____

Date authorization to carry firearm granted: _____

Date authorization to carry firearm to terminate: _____

Request for renewal of permit submitted: _____


Date renewed: _____

Extension to carry firearm to terminate: _____

Date request for renewal denied: _____

Restrictions: _____

Division Director


Armando Cervantes
Chief Adult Probation Officer