



Kern County Sheriff's Office
Policies and Procedures

TITLE: DUTIES OF PERSONNEL - TESTIFYING		NO: B-700	
APPROVED: Donny Youngblood, Sheriff-Coroner			
EFFECTIVE: August 1, 1990	REVIEWED: 7/25/2023	REVISED: 4/20/2005	UPDATED: 11/17/2020

POLICY

All members called to testify before the courts are to be punctual in their attendance. They shall testify with the greatest accuracy and truthfulness, confining themselves to the case before the court or inquest and neither suppress nor overstate the slightest circumstances with a view of favoring or discrediting any person. When cross-examined, they shall answer with the same readiness and civility as when testifying in support of the charge, remembering that the ends of justice will be better served by showing a desire simply to tell the whole truth, whether it be in favor of or against the defendant.

All sworn members of the Sheriff's Office are required, if called upon or subpoenaed as a witness in a criminal proceeding, to testify concerning the performance of their duties and to events and activities perceived by them at any time. The public trust placed in sworn members to enforce the criminal laws of this state demands nothing else.

DIRECTIVE A

Like any other person, sworn members of the Sheriff's Office have the right to remain silent and to claim the privilege against self-incrimination whenever the member sees fit, including under the circumstances described above.

At times, therefore, a sworn member's public duty to testify and their constitutional right to remain silent may come into conflict.

When presented with such a conflict, a sworn member is faced with choosing one of the following courses of action:

- To remain silent and assert the privilege against self incrimination; or
- To testify in accordance with the member's duty.

In the event a sworn member fails to comply with their duty to testify as described above, they shall be subject to administrative discipline up to and including termination.

Anything a sworn member testifies to may be used against them in any administrative or judicial proceeding except that if they state on the court's record that the testimony would not be given and that the privilege against self-incrimination would be claimed but for the coercive effect of this office policy, then neither such testimony nor any information derived therefrom shall be used in a criminal prosecution of that sworn member. (Lefkowitz v. Turley (1973) 94 S.Ct.316; Lybarger v. City of Los Angeles (1985) 40 Cal.3d822.

It shall be solely the duty of any sworn member affected by this policy to place on the court's record for their own protection the fact that the testimony being given by them is coerced by this policy.

DIRECTIVE B

Members of the Sheriff's Office shall not testify at any school expulsion hearing without a court order from the juvenile court, or unless authorized to do so by the Sheriff-Coroner or a chief deputy.

Whenever an employee of the Sheriff's Office has conducted an investigation on school grounds (undercover or otherwise), the Sheriff-Coroner or a chief deputy may permit testimony by the Sheriff's employee provided the expulsion hearing is closed to the public. The school's legal office must provide a written declaration that the expulsion hearing will be closed to the public.

PROCEDURE

Members of the Sheriff's Office receiving a request or court order to testify at a school expulsion hearing will notify their chief deputy of such via chain of command in writing.

The Chief Deputy will:

- Notify the appropriate school authority of Sheriff's Office policy;
- Determine if the circumstances fit the policy exception;
- Advise the members to testify or not;
- Notify County Counsel.

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