

## **CHAPTER 10**

### **MISDEMEANOR CASE SETTLEMENT POLICY**

#### **10.01 INTRODUCTION**

The Misdemeanor Case Settlement Policy has been developed to protect crime victims and the community, punish the guilty and deter crime throughout Los Angeles County. This policy is intended to ensure case settlements throughout the county further these purposes.

The Misdemeanor Case Settlement Policy is intended to be clear and easy to apply in most situations. If conflicting interpretations arise, deputies shall adopt the interpretation that favors the victim and public, not the defendant. If a case includes charges that fall within several different guidelines, deputies shall consider all relevant policies to determine the most appropriate disposition.

#### **10.02 BASIC PRINCIPLE OF MISDEMEANOR CASE SETTLEMENT**

A defendant charged with a misdemeanor shall be required to plead guilty to the charge or charges that most accurately reflect the criminal conduct for which there is sufficient evidence for conviction. Otherwise, the case should proceed to trial.

A deputy may not accept a plea to a charge unless the facts support the charge (e.g., a plea to trespass should not be taken to a petty theft charge unless the facts show that a trespass occurred). If the facts do not support any lesser included or related offense, a deputy should consider a dismissal in the interests of justice if there is insufficient evidence for conviction. A deputy shall obtain the prior approval of his or her Head Deputy or Deputy-in-Charge before dismissing a case.

#### **10.03 MISDEMEANOR GANG CASES**

Gangs present an extreme threat to society. Gang members are often far more dangerous than a criminal acting alone. Therefore, gang members should be punished more severely than non-gang members for their crimes because of the potential danger they present to the community.

##### **10.03.01 SENTENCING**

A deputy shall seek substantial jail time if the defendant is a gang member.

If the court grants probation, deputies shall recommend the following conditions of probation if the defendant is involved in a criminal street gang:

- The defendant must be subject to search upon the request of a law enforcement officer;
- The defendant must be subject to substance abuse testing whenever permitted by law;

- The defendant may not associate with other gang members and shall stay away from specified locations frequented by gang members; and
- The defendant must not wear or display any common identifying sign or symbol of the gang, including gang colors.

#### **10.04 MISDEMEANOR HATE CRIMES**

Because of the far-reaching social implications of many hate crimes, misdemeanor hate crimes shall not be settled without the approval of the Head Deputy or Deputy-in-Charge. This policy is intended to ensure consistent case resolution throughout the county and to increase the community's confidence in the criminal justice system.

##### **10.04.01 SENTENCING**

When a court places a defendant on probation, deputies should vigorously urge the court to impose a counseling program, victim restitution, and other relevant conditions for hate crimes pursuant to Penal Code § 422.85.

Deputies shall notify the Hate Crimes Unit of all hate crimes case settlements. Penal Code § 13023 requires local prosecutorial agencies to report all hate crimes statistics to the Attorney General's Office. The Hate Crimes Unit collects, compiles, and reports these statistics.

#### **10.05 MISDEMEANOR DOMESTIC VIOLENCE**

Deputies shall seek at least minimal time in custody in every misdemeanor domestic violence case settlement. In unusual cases, the Head Deputy or Deputy-in-Charge may approve a deviation from this policy.

##### **10.05.01 SENTENCING**

In determining the appropriate amount of custody time, a deputy shall consider the following factors:

- The level of injury inflicted;
- Prior history of assaultive conduct;
- Future dangerousness and victim safety; and
- The likelihood actual custody time may be reduced by jail crowding.

Domestic violence treatment programs, by themselves, are not sufficient punishment in a domestic violence case. Each sentence should include actual jail time to reinforce the message that that domestic violence is criminal conduct and will not be tolerated. In addition to any jail time imposed, all domestic violence sentences should include an additional, lengthier jail sentence imposed and suspended pending the defendant's successful completion of probation. The goal of stopping violence can best be achieved by having the abuser serve actual time in jail with a suspended jail sentence available for any violations of the terms of probation. Deputies shall request at least a three-year term of probation. A list of appropriate probationary terms and

conditions is contained in Penal Code § 1203.097 and in the *Probation and Sentence Hearings* chapter of this manual.

### 10.05.02 **DISMISSAL**

A domestic violence case may not be dismissed or otherwise compromised simply because the victim expresses an unwillingness to participate in the prosecution. Instead, recognizing the continuing vulnerability of domestic violence victims, deputies should use all available resources, such as the Bureau of Victim Services, to encourage cooperation.

#### *Commentary*

*The continuing vulnerability of domestic violence victims makes it necessary to view their efforts to abandon prosecution with extreme care, or even skepticism. These victims usually remain subject to the continuing threat of physical abuse. This threat is greatly compounded by the social, economic and psychological pressures that are associated with the prosecution of one's spouse or domestic partner, no matter how abusive that person may be.*

*The combined supportive efforts of law enforcement, victim services representatives and prosecutors touch only a small portion of a victim's daily life while a criminal case is pending. At the same time, the cohabitating defendant is in a position to exert continuing influence over the victim. A victim's reluctance to cooperate is usually born of factors extraneous to the merits of the case and, in itself, should not result in a dismissal. Rather, available resources should be used to counsel victims and foster cooperation.*

*As in all violent crimes, an objective assessment of the defendant's culpability and propensity for violence should determine the ultimate case disposition.*

### 10.06 **MISDEMEANOR ASSAULTS ON PEACE OFFICERS**

Deputies shall seek custody time in every assault or battery upon a peace officer case settlement. In unusual cases, a Head Deputy or Deputy-in-Charge may approve a deviation from this policy. A deputy shall have prior approval before making any settlement offer or entering into any plea agreement which does not include custody time.

#### 10.06.01 **SENTENCING**

In determining the appropriate amount of custody time, a deputy shall consider the following factors:

- The degree of injury inflicted or intended; and
- The defendant's prior history of criminal conduct, particularly any prior history of assaultive conduct.

### 10.07 **DRIVING UNDER THE INFLUENCE**

Settling a driving under the influence (DUI) case requires special care.

### 10.07.01 PLEA BARGAINING

Penal Code § 1192.7 (Proposition 8) prohibits plea bargaining in any case involving driving “while under the influence of alcohol, drugs, narcotics, or any other intoxicating substance, or any combination thereof,” unless:

- There is insufficient evidence to prove the case.
- The testimony of a material witness cannot be obtained.
- A reduction or dismissal would not result in a substantial change in sentence.

The following guidelines have been adopted to aid deputies in determining what constitutes insufficient evidence.

### 10.07.02 BLOOD ALCOHOL LEVEL OF .08% OR HIGHER

A deputy may not reduce charges in a DUI case involving a blood alcohol level of .08% or higher unless there are significant factual weaknesses that make successful prosecution unlikely. A deputy must have prior Head Deputy or Deputy-in-Charge approval to reduce the charge(s) in a DUI case involving a blood alcohol level of .08% or higher.

### 10.07.03 BLOOD ALCOHOL LEVEL BETWEEN .05% AND .08%

A deputy may reduce or dismiss a case involving a blood alcohol level between .05% and .08% unless any one of the following circumstances exist:

- Grossly erratic driving;
- Sufficient symptoms of being under the influence; or
- Physical evidence of drug ingestion.

### 10.07.04 BLOOD ALCOHOL LEVEL BELOW .05%

A deputy may dismiss a case involving a blood alcohol level below .05% unless both of the following circumstances exist:

- Physical evidence of drug ingestion; and
- Sufficient symptoms of drug intoxication.

### 10.07.05 REFUSAL TO TAKE A CHEMICAL TEST

A deputy may not reduce a case involving the refusal of a chemical test without prior Head Deputy or Deputy-in-Charge approval.

### 10.07.06 PLEAS

A deputy may settle a DUI case charging violations of both Vehicle Code §§ 23152(a) and (b) by a plea to either count.

### **10.07.07 DRIVING UNDER THE INFLUENCE WITH INJURY**

A deputy may not reduce a Vehicle Code § 23153 case in which there was an injury without prior Head Deputy or Deputy-in-Charge approval.

### **10.07.08 PRIOR CONVICTIONS**

A deputy may not strike a prior DUI conviction unless it is clearly invalid or there are significant proof problems.

### **10.07.09 IGNITION INTERLOCK DEVICES**

This policy pertains to offenses committed on or after July 1, 2010.

Vehicle Code §§ 23700 and 13386 create a pilot program, effective July 1, 2010, that mandates the installation and use of an ignition interlock device (“IID”) for all persons convicted of violating Vehicle Code § 23152 or 23153.

It is the policy of the Office, pursuant to VC §§ 23700 and 13386, to request the following condition of probation for all defendants who are convicted of violating Vehicle Code § 23152 or 23153, or Penal Code § 191.5:

“The defendant is ordered to comply with any and all requirements imposed by the Department of Motor Vehicles regarding the installation and use of an ignition interlock device.”

Furthermore, it is also the policy of the Office, pursuant to Vehicle Code § 23575, that deputies shall request a court-ordered IID in any of the following circumstances:

- The defendant’s measured blood-alcohol level was .20 or higher;
- The defendant’s measured blood-alcohol level was .15 or higher, and the vehicle driven by the defendant is known to have collided with a moving or stationary object;
- The defendant refused the implied consent blood-alcohol test; or
- The defendant committed a violation of Vehicle Code § 23153.

In unusual cases, the Head Deputy or Deputy-in-Charge may approve a deviation from this policy.

If a defendant attempts to circumvent a court-ordered IID by filing a declaration that he or she does not own or operate a motor vehicle, the declaration should be signed under penalty of perjury and co-signed by an interpreter if one was used to assist the defendant at the time of sentencing.

### **10.08 DRIVING WITH A REVOKED OR SUSPENDED LICENSE**

Driving with a revoked or suspended license (VC §§ 14601, et seq.) may be reduced unless:

- The defendant has a prior Vehicle Code § 14601, 14601.1 or 14601.2 conviction; or
- There is satisfactory proof of service of the suspension or revocation by the Department of Motor Vehicles and the defendant has failed to obtain a valid license.

#### **10.09 MISDEMEANOR CHARGES THAT SHOULD NOT BE REDUCED**

- Hit-and-run driving (Vehicle Code § 20002)
- Under the influence of drugs (Health and Safety Code § 11550)
- Petty theft (PC § 484)
- Crimes involving concealed or loaded firearms (PC §§ 25400(a)(1)-(a)(3), 25800(a), and 25850(a))
- Indecent exposure (PC § 314)
- An alternative felony/misdemeanor offense charged as a misdemeanor.

##### *Commentary*

*When an alternative felony/misdemeanor offense is charged as a misdemeanor pursuant to Penal Code § 17(b)(4), there should be no further reduction except in unusual cases. Since the pending charge has already been reduced from the felony to a misdemeanor, a further reduction would not be warranted unless the evidence fails to support the charge.*

#### **10.10 MISDEMEANOR SPECIAL ALLEGATIONS**

Special allegations, if found true, may increase punishment or limit a court’s sentencing options. If the evidence is sufficient to sustain a special allegation, a deputy should vigorously litigate the allegation or require an admission if the defendant pleads guilty.

#### **10.11 SENTENCE COMMITMENTS IN MISDEMEANOR CASES**

Some courts handling misdemeanor cases sentence a defendant immediately after a guilty plea without the benefit of a probation report. The sentences may or may not involve custody time. A deputy should enter into case settlements containing specific sentence commitments with care. At a minimum, deputies should review the defendant’s rap sheet and advise the court of the defendant’s criminal history.

##### **10.11.01 SENTENCE COMMITMENTS EXCLUDING JAIL TIME**

A Head Deputy or Deputy-in-Charge may agree to a misdemeanor sentence that excludes jail time. The Head Deputy or Deputy-in-Charge may delegate responsibility to another deputy to make this determination. When deciding whether to enter into any such agreement, a deputy shall take into account the defendant’s prior record and the severity of the offense. The reasons for the disposition shall be noted in the file.

##### **10.11.02 RESTITUTION**

Deputies are to seek the maximum appropriate restitution fine and penalty assessment. In addition, deputies shall seek restitution for the victim for actual losses or damages.

### 10.11.03 STIPULATION TO PROBABLE CAUSE

Deputies shall not attempt to obtain a stipulation that there was probable cause to arrest a defendant in exchange for a reduction or dismissal of a criminal charge. The California Rules of Professional Conduct, Rule 3.10 (Threatening Criminal, Administrative, or Disciplinary Charges), prohibit an attorney from threatening to present a criminal charge to obtain an advantage in a civil dispute.

### 10.12 DEPARTURE FROM POLICY

Departure from this Misdemeanor Case Settlement Policy may be made in cases not enumerated in Penal Code § 1192.7 in two instances:

- When the admissible evidence is legally insufficient to establish the defendant's guilt; or
- When unusual or extraordinary circumstances exist that demand a departure in the interests of justice.

Unusual or extraordinary circumstances that may justify a departure from policy include circumstances that will result in indirect or collateral consequences to the defendant in addition to the direct consequences of the conviction. A departure from policy in a misdemeanor case based on unusual or extraordinary circumstances requires the prior approval of the Head Deputy or Deputy-in-Charge.

In those rare cases when a settlement is proposed based upon one or more of the factors listed above, prior approval by the Head Deputy or Deputy-in-Charge shall be obtained and the proposed disposition and its reasons shall be noted upon the file and signed by the Head Deputy or Deputy-in-Charge.

#### *Commentary*

*Collateral consequences can, in some cases, have a greater adverse impact on a defendant than the conviction alone. When collateral consequences will have so great an adverse impact on a defendant that the resulting "punishment" will be disproportionate to the punishment other defendants would receive for the same crime, a departure from policy may be warranted.*

*The California Rules of Court include collateral consequences in the rules that courts are to follow when imposing sentence. Rule 4.414 lists the criteria to be considered when deciding whether or not to grant probation for a defendant who has suffered a felony conviction. These criteria are divided into (a) factors relating to the crime and (b) factors relating to the defendant. One of the factors relating to the defendant is: "(6) The adverse collateral consequences on the defendant's life resulting from the felony conviction."*

*A departure from policy based on collateral consequences may only be made in unusual or extraordinary circumstances that demand a departure in the interest of justice. All departures from policy based on collateral consequences shall be approved by the appropriate supervisor.*

### 10.12.01 CONSIDERATION OF ADVERSE IMMIGRATION CONSEQUENCES

Pursuant to Penal Code § 1016.3(b), deputies shall consider the avoidance of adverse immigration consequences as one factor in reaching a just resolution of a case at all times when engaged in the plea negotiation process.

If deviation from case settlement policy is warranted due to these considerations, prior approval by the Head Deputy or Deputy-in-Charge shall be obtained. The proposed disposition and the reasons for the disposition shall be noted in the file and signed by the Head Deputy or Deputy-in-Charge.

### 10.13 ANIMAL CRUELTY

It has been established that a correlation exists between intentional animal abuse and other forms of criminality. Other forms of animal cruelty, such as neglect and illegal animal fighting, are also associated with various negative behaviors and consequences. Neglecting an animal can lead to prolonged suffering or death, and is often indicative of other types of dysfunction within an environment. Illegal animal fighting not only impacts the animals involved, it also adversely affects the quality of life of citizens who reside in areas where illegal animal fighting occurs.

Consequences for mistreating animals should be consistent and uniform. It is essential that sentences for animal cruelty crimes impart the message that no form of animal cruelty is acceptable. Sentences should appropriately address the crime by including terms and conditions designed to prevent similar future conduct. Sentences should also be structured in such a way that they protect the victims of the abuse, as well as potential future victims.

In an effort to ensure that animal cruelty crimes are vigorously prosecuted, animal cruelty cases shall not be sent to EDP courts and, whenever possible, should be vertically prosecuted by designated Animal Cruelty Deputies.

Deviation from this policy requires prior head deputy or deputy-in-charge approval.

#### 10.13.01 ANIMAL CRUELTY CASE DISPOSITIONS

Sentences in animal cruelty cases should convey the message that animal cruelty is a serious crime. To ensure that dispositions are appropriate, specific disposition guidelines have been established for animal cruelty cases.

No one other than an animal cruelty designee or the Animal Cruelty Case Coordinator (ACCC) shall make offers in cases involving animal cruelty charges.

The [animal cruelty case disposition guidelines](#) include terms and conditions that are mandated by law, as well as conditions that are designed to provide adequate oversight of defendants. The disposition guidelines shall be followed by all deputies. Deviation from this policy requires prior approval from the ACCC and the Head Deputy or Deputy-in-Charge.

The [disposition guidelines](#) are available on LADAnet, under Library > Animal Cruelty > Filing, Litigating, and Sentencing Your Case.

Dismissals and Reductions: Charges involving any form of animal abuse, including dog and cock fighting, should not be dismissed, reduced or “diverted” without prior approval from the ACCC and Head Deputy or Deputy-in-Charge.

This policy applies in all cases, regardless of whether the case only involves charges of animal cruelty, or if there are other charges filed, as well.

Diversion: Those who violate any of the animal cruelty statutes are eligible for misdemeanor military diversion under the provisions of Penal Code § 1001.80. When appropriate, deputies should vigorously argue against diversion in animal cruelty cases, especially when the animal-related charges are “priorable” offenses. When the court is considering granting diversion, the deputy shall state the facts of the case, ask the court to review evidence, such as photos and/or video, and present the argument that the defendant may be eligible, but not suitable, for diversion.

Counseling: Depending upon the animal cruelty charge(s) of which the defendant is convicted, counseling may be mandated by law (PC § 589(h).) Judges should be informed of the counseling requirement in cases where counseling is mandated. In all cases that include animal cruelty charges, requiring animal cruelty classes as a term of probation is highly advisable, regardless of whether classes are mandated by law.

When sentencing a defendant to animal cruelty counseling, the designee shall complete a counseling form and email or fax the form to the address or number found at the bottom of the form. A defendant will not be permitted to enroll unless the program had received a copy of the form from the prosecutor.

Database: Upon disposition of a case involving animal cruelty charges the form in the Animal Cruelty Database shall be updated.

#### 10.14 **GRAFFITI**

Whenever a defendant is granted probation in a graffiti case, a deputy shall request the court to impose specific terms and conditions of probation. Forms detailing the required terms and conditions of probation in adult and juvenile matters are available in LADAnet, as attachments to [SD 10-07](#). Head Deputies and Deputies-in-Charge are responsible for periodically auditing graffiti cases to determine if these terms and conditions are being imposed by courts. Deviation from this policy requires prior Head Deputy or Deputy-in-Charge approval.

#### 10.15 **MILITARY PRETRIAL DIVERSION PROGRAM**

Penal Code §§ 1001.80 et seq. authorize a court, at its discretion, to grant a pretrial diversion program to current or former members of the United States military who may be suffering from a form of trauma or substance abuse as a result of their military service and are charged with a

misdemeanor offense. Subdivision (a)(2) permits the court to request an assessment to aid in deciding whether a veteran qualifies for military pretrial diversion. Deputies should familiarize themselves with the provisions of the military pretrial diversion program contained in Penal Code §§ 1001.80 et seq.

If a court determines that a defendant is eligible for a military pretrial diversion program and the defendant consents and waives his or her right to a speedy trial, the defendant may participate in the program over the prosecution's objection. Deputies shall object on the record when the defendant has failed to meet eligibility requirements, or is unsuitable for the program based upon the facts of the case or the defendant's criminal history.

Except in unusual cases in which a Head Deputy or Deputy-in-Charge approves a deviation from this policy, deputies shall object to diversion on domestic violence offenses because of the inherently serious nature of such crimes. Deputies shall also object to diversion for driving under the influence, if a military veteran has previously been granted diversion for driving under the influence under this section or is otherwise unsuitable based on their criminal history. In the instance where a victim has suffered a significant financial loss, deputies shall object to diversion on the grounds that the victim will be denied their right to receive restitution under California Constitution § 28, Article 13(A-B) and Penal Code § 1202.4(f).

In all cases where the court places a defendant into a military pretrial diversion program where the defendant is charged with a violation of Vehicle Code § 23153 (a) or (b), deputies shall notify the victim that the defendant is being diverted. Deputies shall advise the victim of the potential consequences of the diversion process, including the fact that the victim will be unable to obtain court-ordered restitution due to the lack of a conviction. If the victim requests, deputies shall make every effort to provide the victim an opportunity to be heard prior to diversion being granted by the court.

Although the ability of a court to enforce a restitution order in the absence of an actual conviction is not established law, deputies shall request appropriate terms and conditions of diversion, including but not limited to: victim restitution, protective and stay-away orders, orders prohibiting firearm possession, participation in specific programs, community service, and search and seizure conditions.

Marsy's Law requires that victims who have requested notification be informed of case outcomes. When a defendant is diverted and the victim has requested notifications, victims shall be contacted by the handling deputy and informed of the following: (1) the court has granted diversion; (2) if the defendant successfully completes diversion and the case is dismissed, the law does not provide for the payment of restitution for any loss arising out of the crime, including medical expenses; (3) if the victim wishes to obtain damages for his or her loss arising out of the crime, he or she will have to timely seek and obtain a civil judgment; (4) when the defendant has successfully completed diversion; and (5) when the defendant has been terminated from diversion and prosecution reinstated. In cases where victims have suffered significant financial losses related to crimes and the court diverts, deputies shall notify victims regardless of a request to be notified.

If diversion is granted for driving under the influence, deputies shall do the following to ensure public safety and prevent recidivism:

- Request that the court order the defendant to attend all standard DUI programs and install an ignition interlock device (IID) where appropriate; and
- Have the military veteran being diverted acknowledge the Watson advisement.

Deputies who become aware of a violation of the terms imposed by the court at any time during the period of pretrial diversion are expected to notify the court and move for termination of diversion and reinstatement of criminal proceedings. Relevant violations include, but are not limited to: the commission of a new offense, a violation of a protective or stay-away order, failure to pay full restitution within the period ordered by the court, or failure to participate in a program. Deputies shall obtain and review an updated copy of the defendant's criminal history information immediately prior to the end of the deferral period to determine whether the defendant has committed any new offenses.

#### *Commentary*

*In the interest of public safety, deputies are encouraged to request that the court confirm the defendant's claim that he or she is, or was, a member of the United States military. Deputies should also request that the defendant provide documentation from a medical professional that he or she suffers from a mental health problem as a result of his or her military service.*

### **10.16 COURT ADMINISTERED DEFERRED ENTRY OF SENTENCING**

Former Penal Code §§ 1001.94 et seq. authorized a Deferral of Sentencing Pilot Program ("Program"), at the court's discretion. The Program expired by operation of law (PC § 1001.99) on January 1, 2018.

### **10.17 DIVERSION FOR DEVELOPMENTALLY DISABLED DEFENDANTS**

Penal Code § 1001.21 provides that a defendant evaluated by a regional center to have a cognitive developmental disability may seek diversion of pending misdemeanor charges, including offenses reduced from felonies, at any stage of the criminal proceedings. When a defendant is diverted under this section, the prosecutor, the Probation Department, and the regional center for the developmentally disabled must fulfill specified, time-sensitive responsibilities. If a defendant successfully completes diversion, the misdemeanor charges are to be dismissed.

A defendant is eligible for diversion under § 1001.20 et seq. if each of conditions stated in Penal Code § 1001.21 is satisfied. A developmentally disabled defendant may be eligible for diversion regardless of the defendant's criminal history or the nature of the pending charge. Deputies should be aware that some misdemeanor offenses, such as driving under the influence of alcohol or drugs, are statutorily excluded from diversion, with the exception of military diversion. (PC § 1001.80(I); VC § 23640; see *People v. Weatherill* (1989) 215 Cal.App.3d 1569, 1580; see LPM § 10.15.)

If the court suspects that the defendant may have a cognitive developmental disability, and the

defendant consents to diversion and waives his or her right to a speedy trial, the court will order the prosecutor, the Probation Department, and the regional center to prepare separate reports. Penal Code § 1001.22 imposes specific timelines for producing the reports as well as specified information which must be included in the reports from each agency. If the deputy recommends against this form of diversion, he or she shall file a written declaration that states the grounds for the opposition to diversion.

After reviewing the reports prepared by the Probation Department, the prosecutor, and the regional center, the court must decide whether to place the defendant on this form of diversion. A defendant may be eligible but arguably unsuitable for diversion. While the court may divert a developmentally disabled defendant notwithstanding the prosecutor's opposition, it is the obligation of the Office to ensure that the rights of victims and the interests of public safety are maintained. A deputy shall object on the record when a defendant is deemed an unsuitable candidate for the program.

When evaluating a developmentally disabled defendant's suitability for diversion under this section, deputies shall carefully consider the facts and circumstances surrounding the commission of the underlying offense, the nature of the charge, and the defendant's criminal history.

Except in unusual cases in which a Head Deputy or Deputy-in-Charge approves a deviation from this policy, deputies shall object to diversion on cases involving domestic violence, child abuse, elder abuse, or sexual assault because of the inherently serious nature of such crimes.

Also, consequences that follow convictions for certain crimes may be particularly important as to a given defendant and case, rendering a grant of diversion under this section inappropriate. For example, convictions for specified arson and sex related misdemeanor offenses require registration with the Department of Justice. (PC §§ 457.1, 290 et seq.) Additionally, a conviction for a misdemeanor that involves violence or the threat of violence will frequently deny a potentially dangerous defendant the right to possess a firearm within 10 years of the date of conviction (PC § 29805(a)) or a lifetime ban in the case of a misdemeanor violation of PC § 273.5 (PC § 29805(b)).

In every instance in which the court diverts a developmentally disabled defendant under this section, deputies shall request that the court provide the victim with notice and an opportunity to be heard if the victim has made such a request. Appropriate terms and conditions should be imposed as conditions of diversion, including but not limited to: victim restitution; court-ordered protective orders and stay-away orders, as may be appropriate; an order prohibiting firearm possession; and search and seizure conditions.

Deputies who become aware of a violation of the terms imposed by the court during the period of pretrial diversion shall notify the court and move for termination of diversion and reinstatement of criminal proceedings. Possible violations include, but are not limited to: the commission of a felony (after the defendant has been bound over for trial for the subsequently charged felony); a violation of a protective or stay-away order; or an unsatisfactory performance in the diversion program. Deputies shall obtain and review an updated copy of the defendant's

criminal history information immediately prior to the completion of the diversion period to determine whether the defendant has committed any new felonies.

#### 10.18 PROSECUTION OF LOCAL CITY ORDINANCES

There are 88 incorporated cities in the County of Los Angeles. Many of these cities have adopted local city ordinances creating offenses for conduct not otherwise prohibited by state law or county ordinance. These offenses can be punished as either misdemeanors or infractions. Some of the cities retain their own City Attorney or City Prosecutor to pursue violations of these ordinances. Others, however, rely on the Office to prosecute violations of these ordinances on behalf of the city. These cities have contracted with the County of Los Angeles for this service at standard contract rates and must reimburse the county for the cost engendered by Office staff in the prosecution of these ordinances.

Whenever one of the cities with established contracts with the county asks the Office to file a criminal complaint for a violation of a city ordinance, the code for Contract Cities (CC) shall be entered in the box at the bottom of the Misdemeanor Filing Worksheet by the filing deputy. This information shall then be entered into PIMS by support staff assigned to complete the filing paperwork and prepare the case file.

In preparing the misdemeanor case file in a Contract Cities case, support staff shall attach the Contract Cities Billing Sheet to the file in lieu of the standard Misdemeanor Filing Worksheet Comments page. The Billing Sheet shall be placed in the file behind the Misdemeanor Filing Worksheet. Whenever any Office employee, including an attorney, investigator, support staff or PDP officer, handles one of these cases, the employee shall write the amount of time the employee spent handling the case, in 15 minute increments, on the Billing Sheet.

When the case is closed, a copy of the Billing Sheet shall be forwarded to Bureau of Administrative Services, Budget and Fiscal Services Division, Attention: Cost Accounting Unit. Accounting will calculate the charges and bill the city for Office services.

All filing documents referenced above can be located in the **DA Filing Forms** icon in Lotus Notes and in PIMS.