

PART 355
PROBATION OFFICERS AS PEACE OFFICERS

- Sec. 355.1 Definition
355.2 Objective
355.3 Requirements for policies and procedures for probation officers acting as peace officers

§355.1 Definition.

The term peace officer means a person designated by law who is authorized to exercise peace officer powers when acting pursuant to his or her special duties. Persons designated as peace officers include probation officers. For purposes of the Executive Law, Criminal Procedure Law and Family Court Act, probation officer trainees shall be considered probation officers.

§355.2 Objective.

To provide and promote public protection by regulating the conduct of the probation officer as a peace officer.

§355.3 Requirements for policies and procedures for probation officers acting as peace officers.

(a) Each director of probation shall, in accordance with law, develop, implement and maintain a peace officer policy in writing specifying:

- (1) when such officers, acting as peace officers, are to be considered performing their official duties as employees of the probation department;
- (2) if and when such officers may use, carry or possess a firearm while on duty; and
- (3) when and under what conditions such officers may carry out arrest, search and seizure functions and execute warrants.

(b) Each probation officer shall be provided with a written copy of the department's policy and procedures.

(c) Each director of probation shall ensure that all probation officers are trained in accordance with the provisions of this part and, where appropriate the provisions of Criminal Procedure Law §2.30.

(d) With respect to the execution of warrants, the policies shall provide for

(1) the reciprocal notification of issuance, execution and cancellation of violation of probation warrants to and from the department and the local law enforcement agency involved in the execution of the warrant; and

(2) the entrance and cancellation of all violation of probation warrants into the Division of Probation and Correctional Alternatives registrant system computer file and the Division of Criminal Justice Services wanted/missing persons file.

(e) The policy shall also provide for documentation from the probation officer regarding the circumstances surrounding the execution of an arrest, a warrant or a search and seizure, including the date, time and place of the action and if the person is detained, the name of the agency assuming custody of the person arrested or in the event contraband was seized, a description of the nature, quantity and location of the contraband.

(f) No probation officer shall use, carry or have a firearm in his or her possession while on duty unless specifically authorized in writing by the director of probation. This part shall not in any way impair, abridge or limit the exercise of any power possessed by a director of probation to regulate the off-duty use, carrying or possession of a firearm by a probation officer.