



# SUPREME COURT OF APPEALS OF WEST VIRGINIA

## Body Armor Policy Division of Probation Services

### 1. Introduction.

#### 1.1 Overview.

The Supreme Court of Appeals of West Virginia Division (“the Court”) through its Division of Probation Services (“DPS”) establishes this policy to prescribe the standards for issuance, use, and management of ballistic-resistant body armor (“body armor”). DPS is entrusted with providing probation services throughout the state of West Virginia, including the critical responsibility of supervising criminal probationers. This work is accomplished by a team of field probation officers (“probation officers” or “officers”) who are responsible to follow the standards detailed in this policy as a means of maximizing probation officer safety.

It is a DPS objective to maximize probation officer safety through the use of available ballistic-resistant body armor (“body armor”) in combination with prescribed safety procedures. While body armor provides a significant level of protection, it is not a substitute for the observance of officer safety procedures. By conforming to standard wear and maintenance policies, procedures, training, and equipment, probation officers can more effectively protect themselves and the public they serve. This policy provides guidance and parameters under which body armor is issued to probation officers by the DPS, and does not apply to body armor provided through other means.

Violations of this policy may result in disciplinary or other corrective action, including immediate employment termination. Address any questions regarding this policy to the Director of DPS (or designee).

**1.2 Terms.** This policy uses the following defined term:

(a) *Field Activities.* Duty assignments and/or tasks that place or could reasonably be expected to place probation officers in situations where they would be required to act in an enforcement capacity, rather than administrative or support capacity, including home visits.

### 2. Policy Standards.

All body armor purchased and issued by the DPS must comply with protective and related requirements prescribed under current standards of the National Institute of Justice. The DPS shall issue an assortment of agency-approved body armor to each probation office, such as Galls GTAC Plate Carrier with XPIIIA Armor. The DPS shall maintain detailed records of the body armor purchased, received, and dispatched to the individual probation offices. See below.

Probation officers that are assigned to field duties are required to wear the body armor supplied by the DPS while engaged in field activities in the line of duty unless exempt as

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follows: 1) when a physician determines that an officer has a medical condition that would preclude wearing body armor and that officer provides a medical note to their Chief Probation Officer or the DPS; 2) when the Chief Probation Officer determines that circumstances make it inappropriate to mandate wearing body armor; or 3) appropriately fitting body armor is not available to the probation officer, at which time the probation officer is, again, strongly cautioned to exercise careful observation of officer safety procedures.

Each circuit's Chief Probation Officer shall be responsible for ensuring and tracking that body armor is worn and maintained as required by this policy through routine observation and periodic documented inspections. Annual inspections of body armor shall be conducted for fit, cleanliness, and signs of damage, abuse and wear.

Probation officers who wear the body armor shall routinely on an ongoing basis inspect their body armor for signs of damage and for general cleanliness. As dirt and perspiration may erode ballistic panels, each officer shall be responsible for cleaning body armor in accordance with the manufacturer's instructions. Additionally, probation officers are responsible for the proper storage, maintenance, and care of body armor in accordance with manufacturer's instructions.

Officers are responsible for reporting damage or excessive wear to the ballistic panels or cover to their Chief Probation Officer, who shall then report the information to DPS. Body armor will be replaced in accordance with guidelines and protocols established by the National Institute of Justice and the procedures promulgated by the Court and DPS. Body armor that is worn or damaged shall be returned to the DPS and replaced by the DPS within a reasonable timeframe. Body armor that must be replaced due to misuse or abuse by the probation officer shall be paid for by the officer.

The Chief Probation Officer and the DPS shall be responsible for the body armor program by engaging in the following activities: 1) monitoring technological advances in the body armor industry that may necessitate a change in body armor issued; 2) providing Use of Force training which includes wearing the body armor; and 3) maintaining statistics on incidents where armor has or has not protected probation officers from harm, including traffic accidents.

### **3. Body Armor Issue Process.**

The Court Administrative Office has approved funding for the purchase of a certain number of Galls GTAC Plate Carrier with XPIIIA Armor for issue to probation offices throughout the State of West Virginia. The DPS shall establish a distribution schedule based upon the number of officers assigned to each Judicial Circuit as well as the number of Counties in each Judicial Circuit, and then determine how many vests are needed and can be purchased with the available funding. Pursuant to this distribution schedule, the DPS shall, within a reasonable timeframe, inform each probation office how many vests shall be allotted to them, and each Chief Probation Officer or designee shall inform the DPS within a reasonable timeframe what sizes are needed.

The DPS shall then purchase Galls GTAC Plate Carrier with XPIIIA Armor or other agency-approved body armor for issue to the probation offices. Once the DPS procures the vests, each Chief Probation Officer will travel to the DPS to pick up the allotment of vests. The Chief Probation Officer and a representative of the DPS shall inspect the vest or vests for any obvious defect or manufacturing flaw, and then each shall provide a dated signature at the time of pick-up. As noted in section 2 above, the DPS shall maintain detailed records of vests issued to each Chief Probation Officer for the respective probation offices and Judicial Circuits, including a record of the signatures, serial numbers of vests issued, date of issue, circuit of issue, county of use, number of vests allotted, sizes requested by/issued to each circuit, expiration dates for each vest, return dates, and related information as determined by the DPS.

Upon receipt of body armor issued by the DPS, probation offices shall store the body armor in a secure location accessible to its probation officers for their use. The Chief Probation Officer shall be responsible for devising a system for tracking the use of the vests, including, but not limited to, the date of vest retrieval, wear, and return, the name of the probation officer wearing the vest, identifying information about the vest such as size and number, and the condition of the vest upon retrieval and return. Upon body armor issue, each probation officer will be provided with the manufacturer's instructions for the particular piece of body armor (Attachment 1). The DPS shall require that each probation officer reads and acknowledges understanding of these manufacturer's instructions, (Attachment 2), and the probation office shall provide this form to the DPS in accordance with the instructions provided.

Per the manufacturer and the National Institute of Justice, the warranty on this body armor expires after five (5) years, a point at which the body armor should be retired from service.<sup>1</sup> Thus, as reasonably close to every five (5) years as possible, the DPS shall issue probation offices new body armor. It shall be the responsibility of the DPS to track projected re-issue dates based upon the recorded expiration dates. In advance of an impending expiration date, the DPS shall alert the Chief Probation Officers of the need for a reissuance. Upon receipt of this information, the Chief Probation Officer shall make arrangements with the DPS to return the expiring body armor to the DPS. The DPS shall then be responsible to re-issue new replacement body armor to the Chief Probation Officer, to the extent that funding allows for such re-issuance. Additionally, upon receipt of the expiring body armor, the DPS shall retire the body armor and dispose of it in accordance with guidelines and safety protocols established by the manufacturer and the National Institute of Justice.

This policy is guidance for probation officers, and does not create or confer any right, privilege, or benefit for any person, party or entity. *United States v. Caceres*, 440 U.S. 741 (1979).

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<sup>1</sup> Depending on the use and condition of the body armor, a vest may need to be retired sooner.