

1024.1 POLICY

The Department provides soft body armor for specified members in an effort to improve safety.

1024.1.1 PURPOSE AND SCOPE

Practical safety measures should be used to reduce the risks and hazards associated with police work.

1024.2 DEFINITIONS

Enforcement Activities – Duty assignments and/or tasks that place or could reasonably be expected to place officers in situations where they are at risk of being involved in violent encounters.

Extreme Climate Related Conditions – Any time the local outside ambient temperature exceeds 95 degrees Fahrenheit, as listed on the National Weather Service Forecast at <http://www.weather.gov>.

1024.3 BODY ARMOR

Soft body armor vests are issued to all sworn personnel because they have been shown to be effective in reducing deaths and life threatening injuries. Personnel are only authorized to wear Department issued or Department approved body armor.

1024.4 USE OF BODY ARMOR

All officers assigned to a uniformed position are required to wear body armor while engaged in enforcement activities as defined above. Officers may be exempt from mandatory use when:

- (a) The officer provides written documentation from their physician indicating that the officer has a medical condition that precludes wearing body armor;
- (b) The Department determines that circumstances make it inappropriate to mandate wearing body armor based on job assignment; or
- (c) Extreme climate related conditions exist, as defined above.

All probationary officers are required to wear their issued ballistic vest while in uniform. Officers engaged in enforcement activities that are exempt from wearing their body armor shall have it readily available. Damaged vests should be replaced by the Equipment & Supply Unit as soon as possible.

Body armor use is mandatory for all sworn personnel involved in a pre-planned event where time and practicality allow officers to put on body armor in anticipation of encountering armed or dangerous suspects, serving any search warrant, or circumstances involving a felony suspect (i.e., arrest, field interview, SWAT operations, stake-outs, etc.). (See Policy §323)

Supervisors shall be responsible for ensuring that body armor is worn as required through routine observation.

Fresno Police Department Policy Manual

Telephone & Address Requirements

1025.1 POLICY

Members shall provide the Department with their current phone number and street (residence) address. Members using post office boxes or mailing addresses other than their street address shall also provide the Department with that information.

1025.1.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure the Department has the information necessary to effectively communicate with its members in a timely and appropriate manner.

1025.2 TELEPHONE REQUIRED

Members shall maintain a functional telephone in their private residence and shall ensure that the Department has their telephone number(s) accurately recorded.

1025.3 ADDRESS REQUIREMENTS

Members shall provide the Department with their current street (residence) address. Members using post office boxes or mailing addresses other than their street address shall also provide the Department with that information.

1025.4 CHANGE OF ADDRESS OR TELEPHONE

Members who change their address and/or telephone number shall notify the Personnel Bureau of their new address and/or telephone number on the Department Change of Address/Telephone Form. This notification shall be made by the close of business on the day the change is to be made. Members shall also complete a yellow ADDRESS/PHONE NUMBER CARD in the Fiscal Affairs Bureau to ensure proper forwarding of payroll related documents. (i.e., W-2's, Payroll Advice Stubs, etc.)

1025.5 TELEPHONE & ADDRESS LIST DISTRIBUTION

The Personnel Bureau shall maintain the master list of the addresses and telephone numbers of all members. Copies shall be distributed to the Office of the Chief of Police, or designee, all division, district, and section commanders, division managers, division secretaries, the Fiscal Affairs Bureau, the Duty Office, and the CLO. Lists may be copied by others only with permission of their commander/manager. Information contained on any of these lists is confidential and shall not be released except as provided in this order.

1025.6 HANDLING INQUIRIES

Inquiries regarding the name, address, and/or phone number of a member shall be directed to that member's division secretarial staff during normal business hours of the division. Requests falling outside of normal business hours shall be directed to the Duty Office.

1025.6.1 RELEASE TO MEMBERS

The division secretarial staff member or duty officer may release the requested information to another member upon verification of the requesting member's identity.

1025.6.2 RELEASE TO NON-MEMBERS

Except for the release to District Attorney (DA) personnel, no member shall release name, phone number, and/or address information of a member to a non-member. When the requesting party wishes to contact a member for a personal emergency or urgent work related reasons, the division secretarial staff member or duty officer will immediately attempt to contact the member and deliver the message. When the request does not require an immediate attempt to contact the member or when the division secretarial staff member or duty officer is unable to contact the member, they may provide the

requesting party with the member's voice mailbox number. When there is no voice mailbox for the member, a written message shall be taken and forwarded as appropriate.

1025.6.3 RELEASE TO DA PERSONNEL

Members of the CLO are authorized to release address/phone number information to DA personnel when it is necessary to contact the member regarding a case and the contact cannot wait until, or be accomplished while, the member is on duty.

1025.7 VOICE MAIL AND ELECTRONIC MAIL

Members shall activate their assigned voice mailbox upon its issuance and prepare a professional greeting in the member's own voice. The greeting shall include the member's name, rank, assignment and a request that a message be left. No music or other evident background noise shall be included in the greeting. Members shall review their voice mail messages a minimum of once during each duty shift. This mandatory review shall take place at the beginning of the shift. Duty related messages received by members shall be acted upon as soon as practical or as circumstances dictate. Members who are assigned to positions which utilize e-mail shall review their e-mail messages a minimum of once during each duty shift they work. Duty related messages received by members via e-mail shall be acted upon as soon as practical or as circumstances dictate.

1026.1 POLICY

It is the policy of this Department to maintain personnel records and preserve the confidentiality of member personnel records pursuant to Penal Code (PC) §832.7.

1026.1.1 PURPOSE AND SCOPE

This policy governs the maintenance, retention, and access to member personnel files in accordance with established law.

1026.2 DEFINITIONS

Brady Material - In the Brady v. Maryland decision (373 U.S. 83 (1963)) the United States Supreme Court held that the prosecution has an affirmative duty to disclose to the defendant evidence which is both favorable and material to the guilt and/or punishment of the defendant.

Note: PC §1054.1 establishes a criminal defendant's right to access potentially exculpatory evidence.

The Prosecution - Refers to the District Attorney and all investigative agencies involved in the criminal prosecution of a defendant, including this Department.

1026.2.1 PERSONNEL FILES DEFINED

Pursuant to PC §832.8, member personnel records shall include any file maintained under an individual member's name relating to:

- (a) Personal data, including marital status, family members, educational and employment history, home addresses or similar information;
- (b) Original performance evaluations;
- (c) Medical history;
- (d) Election of employee benefits;
- (e) Employee advancement, appraisal, or discipline;
- (f) Complaints or investigations of complaints, concerning an event or transaction in which the member participated, or which the member perceived, and pertaining to the manner in which the member performed official duties; and
- (g) Any other information the disclosure of which would constitute an unwarranted invasion of personal privacy.

The personnel files described in this order are authorized by the Chief of Police. No other personnel files may be maintained with respect to any member without the knowledge of the member and the permission of the Chief of Police. This order does not, however, prohibit supervisors from keeping notes, attendance logs or similar documents, when these documents are to be used for periodic performance evaluations or will eventually be entered into an authorized file.

1026.3 EMPLOYEE RECORD LOCATIONS

Employee records will generally be maintained in any of the following:

Divisional File - A separate, internal file maintained by each bureau, section, or unit commander that contains those documents that pertain to a member's performance within their area of assignment.

Field Training Files - The Field Training Coordinator maintains a file on each member who is in or has been in the Field Training Program. These files contain all the documents generated on each member while in the Field Training Program.

Internal Affairs Files - Files maintained by the Internal Affairs Bureau that contain complaints of member misconduct and all materials relating to the investigation into such allegations, regardless of

disposition. In addition, IA files contain Risk Management claim investigations, pursuit reviews, accident reviews, and discrimination and harassment dispositions.

Master Personnel File - That file which is maintained in the Personnel Bureau as a permanent record of a member's employment with this Department and may be subject to the provisions of Government Code (GC) §3305 and §3306. This file should contain documents relative to a member's employment and training by the Department except for pre-employment background information and Internal Affairs Unit investigative files. Documents which should be placed in this file include, but are not limited to, formal commendations, disciplinary actions, evaluations, training records, etc.

Medical File – Any file maintained by the Worker's Compensation Coordinator which contains documents related to a member's medical condition and history. These files shall be maintained separately from all other personnel records.

Member Emergency Card Files – Files maintained by the Communications Manager that contain Emergency Contact information for members. When there is a change of persons to contact, members shall complete a new card and forward it to the Communications Manager.

Pre-employment File - The Personnel Bureau maintains a separate file on each member that is restrictive to pre-employment background and history information. No other documentation may be placed in this file.

Reserve Officer Personnel Files – Files maintained by the Reserve Officer Coordinator which contain master personnel files on all reserve officers, including all of the information generated with respect to the reserve's service to the Department (except background investigation information).

Supervisor Log Entries - Any written comment, excluding actual performance evaluations, made by a supervisor concerning the conduct of a member of this Department.

Training File - Files maintained by the Training Manager which documents the training records of a member and contains original or photocopies of available certificates, transcripts, diplomas, and other documentation, along with education and firearm qualifications.

1026.4 CONFIDENTIALITY OF ALL PERSONNEL FILES

Pursuant to PC §832.7, all of the above defined personnel records shall be deemed confidential and shall not be subject to disclosure except pursuant to the discovery procedures set forth in Evidence Code §1043, et seq. or in accordance with the California Public Records Act and applicable federal discovery laws. Nothing in this section is intended to preclude review of personnel files by the City Attorney, other attorneys employed by and/or retained by the City, or representatives of the City in connection with official business. See Policy §1026.7 for member personnel files subject to release pursuant to a proper request under the California Public Records Act.

Information possessed by the Department regarding members is strictly confidential. This includes all personnel files, telephone and address information, and other personal information. The release of any information in a personnel file shall be controlled by Policy §1026 through the Internal Affairs Bureau Commander and the City Attorney's Office. The release of other personnel information about another is prohibited.

1026.5 SECURITY

Personnel records should be maintained in a secured location and locked either in a cabinet or access-controlled room. Personnel records maintained in an electronic format should have adequate password protection.

1026.5.1 REQUESTS FOR DISCLOSURE

Any request for a personnel record under Evidence Code (EC) sections 1043 et seq. (i.e., Pitchess motion process) shall promptly be forwarded to the City Attorney's Office (CAO). Upon receipt of any

such request, the affected member shall be notified as soon as practical that such a request has been made. The CAO shall further ensure that an appropriate response is made in a timely manner, consistent with applicable law. All requests for disclosure that result in access to a member's personnel records shall be logged in the corresponding file. Should the CAO or any other Department or representative of the City of Fresno receive a request for member personnel records, they will notify the Internal Affairs Bureau (IAB) Commander.

1026.5.2 RELEASE OF CONFIDENTIAL INFORMATION

Except as provided by this policy or pursuant to lawful process, no information contained in any confidential member personnel file shall be disclosed to any unauthorized person(s) without the expressed prior consent of the involved member or written authorization of the Chief of Police or their designee.

Any person who maliciously, and with the intent to obstruct justice or the due administration of the laws, publishes, disseminates, or otherwise discloses the residence address or telephone number of any member of this Department may be guilty of a misdemeanor (PC §146(e)).

Pursuant to PC §832.7(f)(1), the disposition of any member of the public's complaint shall be released to the complaining party within 30 days of the final disposition. This release shall be limited to the disposition and shall not include what discipline, if any was imposed.

The Department may also release any factual information concerning a disciplinary investigation if the member who is the subject of the investigation (or the member's representative) publicly makes a statement which is published in the media and which the member (or representative) knew to be false. The disclosure of such information, if any, shall be limited to facts that refute any such false statement (PC §832.7(e)).

The Department may, without a request, disclose to the public the cause of termination for a disclosable incident involving a former officer, as permitted by law (PC § 832.7(b)(13)).

1026.6 BRADY MATERIAL IN PERSONNEL FILES

The purpose of this section is to establish a procedure for releasing potentially exculpatory information (so-called Brady material) contained within confidential peace officer personnel files.

1026.6.1 RELEASE OF PERSONNEL FILES TO DISTRICT ATTORNEY

Pursuant to PC §832.7(a), the only time the District Attorney (Attorney General or Grand Jury) is entitled to access confidential peace officer personnel files without filing a Pitchess motion is when they are investigating the conduct of an officer or this Department. Such access shall not be considered a waiver of the confidentiality of the information contained in these files. The Pitchess motion process does not apply to federal law.

Absent a specific investigation of identified officer(s) or a specific investigation of this Department (or the consent of an involved officer), no confidential information from any officer's personnel file shall be released to the District Attorney or Grand Jury without full compliance with the Pitchess motion process. The prosecution of a criminal defendant is not considered an investigation of any involved officer.

Should an officer's credibility or other issues related to an officer's personnel file arise in the context of an officer acting as a witness for the prosecution, access to that officer's personnel file by either the District Attorney or the criminal defendant shall be limited to that which is authorized by the process set forth in EC §1043, et seq.

1026.6.2 PROCEDURE

If an officer is a material witness in a criminal case, a person or persons designated by the Chief of Police may examine the subject officer's personnel file to determine whether there are Brady materials

contained therein (e.g., evidence which is both favorable and material to the guilt and/or punishment of the defendant). If Brady material is located, the following procedure shall apply:

- (a) In the event that a Pitchess motion has not already been filed by the criminal defendant or other party, the District Attorney shall be notified of the potential presence of Brady material in the officer's personnel file;
- (b) The District Attorney should be instructed to file a Pitchess motion in order to initiate an in-camera review by the court;
- (c) As with any Pitchess motion, and prior to any review of the files by the court, subject officer(s) shall be notified in writing that a Pitchess motion has been filed;
- (d) The responsible Custodian of Records shall accompany all relevant personnel files during any in camera inspection and address any issues or questions raised by the court in determining whether or not any material contained in the file is both material and favorable to the criminal defendant; and
- (e) If the court determines that there is relevant Brady material contained in the file(s), only that material ordered released will be copied and released to the parties filing the Pitchess motion.
 - 1) Prior to the release of any materials pursuant to this process, the Custodian of Records should request a protective order from the Court limiting the use of such materials to the involved case and requiring the return of all copies upon completion of the case.

1026.7 RELEASE OF PERSONNEL RECORDS AND RECORDS RELATED TO CERTAIN INCIDENTS, COMPLAINTS, AND INVESTIGATIONS OF OFFICERS

Personnel records and records related to certain incidents, complaints, and investigations of officers shall be released pursuant to a proper request under the Public Records Act and subject to redaction and delayed release as provided by law.

The IAB Commander and CAO shall determine what records may qualify for disclosure when a request for records is received and if the requested record is subject to redaction or delay from disclosure. The IAB Commander shall notify the affected member as soon as practical that such a request has been made.

Unless a record or information is confidential or qualifies for delayed disclosure as provided by PC §832.7(b)(7) or other law, the following records shall be made available for public inspection upon request (PC §832.7):

- (a) Records relating to the report, investigation, or findings of:
 - 1) The discharge of a firearm at another person by an officer.
 - 2) The use of force against a person resulting in death or in great bodily injury (as defined by PC §243(f)(4)) by an officer.
 - I. Should a request concern an incident for which there is no current or anticipated administrative or criminal investigation, the records requested will be provided by the Records Manager. The records will be forwarded to the CAO for review and redaction if necessary, and then to the IAB Commander who will be responsible for final review. If a member is identified as a focus of the request, or a substantial actor in the incident as determined by the IA Commander, the member will be notified prior to the release of records and given an opportunity to object and/or otherwise respond to the production. The FPOA will be provided a courtesy copy of the notice at such time as the member(s) is notified.
- (b) Records relating to an incident where a sustained finding was made by the Department:
 - 1) An officer engaged in sexual assault of a member of the public (as defined by PC §832.7(b)).
 - 2) Dishonesty of an officer directly relating to the reporting, investigation, or prosecution of a crime, or directly relating to the reporting of, or investigation of misconduct by, another officer, including but not limited to any sustained finding of perjury, false statements, filing false reports, destruction, falsifying, or concealing of evidence.
 - 3) Involving a complaint that alleged unreasonable or excessive force.
 - 4) That an officers failed to intervene against another officer using force that is clearly unreasonable or excessive.

- 5) That an officer engaged in conduct including, but not limited to, verbal statements, writings, online posts, recordings, and gestures, involving prejudice or discrimination against a person on the basis of race, religious creed color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status.
- 6) That an officer made an unlawful arrest or conducted an unlawful search.

For purposes of this section, a record includes:

- (a) All investigation reports;
- (b) Photographic, audio and video evidence;
- (c) Transcripts or recordings of interviews;
- (d) Autopsy reports;
- (e) All materials compiled and presented for review to the District Attorney or to any person or body charged with determining whether to file criminal charges against an officer in connection with an incident, or whether the officer's action was consistent with law and Department policy for purposes of discipline or administrative action, or what discipline to impose or corrective action to take;
- (f) Documents setting forth findings or recommending findings;
- (g) Copies of disciplinary records relating to the incident, including any letters of intent to impose discipline, any documents reflecting modifications of discipline due to the Skelly or grievance process, and letters indicating final imposition of discipline or other documentation reflecting implementation of corrective action (PC §832.7(b)(2);
- (h) To the complaining party, a copy of their own statements at the time the complaint is filed (PC §832.7(c));
- (i) Data regarding the number, type, or disposition of complaints (sustained, not sustained, exonerated, or unfounded) made against officers if that information is in a form which does not identify the individuals involved (PC §832.7(d)); and
- (j) Factual information (facts contained in the personnel file concerning the investigation that specifically refute the false statements) concerning a disciplinary investigation if the officer who is the subject of the disciplinary investigation or the officer's agent, publicly makes a statement they know to be false concerning the investigation by the employer unless the false statement was published by an established medium of communication, such as television, radio, or newspapers (PC §832.7(e)).

Upon receipt of a request for the inspection of records described in PC §832.7(b)(2), the Department (Internal Affairs Commander or designee) shall notify the affected member(s) and the designated FPOA representative of the request within three (3) business days, absent extenuating circumstances. The same members shall be notified five (5) business days prior to the anticipated release of the requested material and shall be provided with an opportunity to review said material at the CAO.

A record from a separate and prior investigation or assessment of a separate incident shall not be released unless it is independently subject to disclosure (PC §832.7(b)(3)).

When an investigation involves multiple officers, the Department shall not release information about allegations of misconduct or the analysis or disposition of an investigation of an officer unless it relates to a sustained finding of a qualified allegation as provided by PC §832.7(b)(4) against the officer. However, factual information about the action of the officer during an incident or the statements of an officer shall be released if the statements are relevant to a sustained finding of the qualified allegation against another officer that is subject to release (PC §832.7(b)(4)).

1026.7.1 REDACTION

The IAB Commander and CAO, in consultation with the Chief of Police or authorized designee, shall redact the following portions of records made available for release (PC §832.7(b)(5)):

- (a) Personal data or information (e.g., home address, telephone number, identities of family members, driver's license numbers, social security numbers, date of birth, and other identifying

information that may be present in the investigative file) other than the names and work-related information of officers;

- (b) Information that would compromise the anonymity of complainants and witnesses, including non-sworn employees, however, the name of any criminal suspects will not be redacted unless necessary to preserve their confidentiality as a confidential informant if they are acting in such a capacity;
- (c) Confidential medical, financial, or other information where disclosure is prohibited by federal law or would cause an unwarranted invasion of personal privacy that clearly outweighs the strong public interest in records about misconduct and serious use of force (e.g. Social Security number, HIPPA, CLETS reports);
- (d) Where there is a specific, articulable, and particularized reason to believe that disclosure of the record would pose a significant danger to the physical safety of the officer or another person;
- (e) Information will be redacted to prevent an unwarranted invasion of personal privacy that clearly outweighs the public interest as determined by the CAO;
- (f) Attorney-client privileged communication and/or attorney work product;
- (g) Documents maintained in the IA file that are not part of the IA or the disciplinary decision, such as internal memos or e-mails and internal logs;
- (h) Skelly meeting recordings and notes made by the Skelly Officer will be withheld, with only the letter of intent and final disciplinary documents being produced if discipline was actually imposed; and
- (i) The letter of intent/notice of proposed disciplinary documents will only be produced if the officer was served with the final order of suspension/demotion/removal.

Additionally, a record may be redacted, including redacting personal identifying information, where, on the facts of the particular case, the public interest served by not disclosing the information clearly outweighs the public interest served by disclosing it (PC §832.7(b)(6)).

1026.7.2 DELAY OF RELEASE

Unless otherwise directed by the Chief of Police, the IAB Commander should consult with the unit supervisor of the underlying investigation to determine whether to delay disclosure of records relating to the discharge of a firearm or use of force resulting in death or in great bodily injury due to any of the following conditions (PC §832.7):

- (a) Active criminal investigations;
 - 1) Disclosure may be delayed 60 days from the date the misconduct or use of force occurred or until the District Attorney determines whether to file criminal charges, whichever occurs sooner.
 - 2) After the initial 60 days, delay of disclosure may be continued if the disclosure could reasonably be expected to interfere with a criminal enforcement proceeding against an officer or against someone other than an officer who engaged in misconduct or used the force.
- (b) Filed criminal charges;
 - 1) When charges are filed related to an incident where misconduct or force was used, disclosure may be delayed until a verdict on those charges is returned at trial or, if a plea of guilty or no contest is entered, the time to withdraw the plea has passed.
- (c) Administrative investigations;
 - 1) Disclosure may be delayed until whichever occurs later:
 - I. There is a determination from the investigation whether the misconduct or use of force violated law or Department policy, but no longer than 180 days after the date of the Department's discovery of the misconduct or use of force or allegation of misconduct or use of force.
 - II. Thirty days after the close of any criminal investigation related to the officer's misconduct or use of force.
- (d) Except to the extent temporary withholding is permitted in (a) – (c) above, records subject to disclosure shall be provided at the earliest possible time and no later than 45 days from the date of a request for their disclosure. ((PD 832.7(b)(11))

1026.7.3 NOTICE OF DELAY OF RECORDS

When there is justification for delay of disclosure of records relating to misconduct, the discharge of a firearm or use of force resulting in death or in great bodily injury during an active criminal investigation, the IAB Commander shall provide written notice of the reason for any delay to a requester as follows (PC §832.7):

- (a) Provide the specific basis for the determination that the interest in delaying disclosure clearly outweighs the public interest in disclosure. The notice shall also include the estimated date for the disclosure of the withheld information.
- (b) When delay is continued beyond the initial 60 days because of criminal enforcement proceedings against anyone, at 180-day intervals provide the specific basis that disclosure could reasonably be expected to interfere with a criminal enforcement proceeding and the estimated date for disclosure.
 - 1) Information withheld shall be disclosed when the specific basis for withholding the information is resolved, the investigation or proceeding is no longer active, or no later than 18 months after the date of the incident, whichever occurs sooner, unless:
 - I. When the criminal proceeding is against someone other than an officer and there are extraordinary circumstances to warrant a continued delay due to the ongoing criminal investigation or proceeding, then the Department must show by clear and convincing evidence that the interest in preventing prejudice to the active and ongoing criminal investigation or proceeding outweighs the public interest for prompt disclosure of records about use of serious force by officers.

In cases where an action to compel disclosure is brought pursuant to Government Code § 6258, the Department may justify delay by filing an application to seal the basis for withholding if disclosure of the written basis itself would impact a privilege or compromise a pending investigation (PC §832.7(b)(7)).

1026.8 MEMBER ACCESS TO OWN FILE(S)

A member may request access to their own personnel file(s) during normal business hours. A member may review any file maintained on them in the presence of whomever is responsible for maintaining the file, subject to the provisions of this section. Review of permanent files (i.e., master personnel and division level) may be conducted at no less than six-month intervals.

1026.8.1 PRE-EMPLOYMENT BACKGROUND FILE REVIEW

Members may not review their background investigation files.

1026.8.2 INTERNAL AFFAIRS FILE REVIEW

Members may review completed Internal Affairs investigation files in which they were an accused, with the exception of confidential information (e.g., informant identities, details about other accused members, etc.)

Members are restricted from accessing open internal investigations, pending final disposition or notice to the member of intent to discipline.

1026.8.3 ACKNOWLEDGING REVIEW

Members who review any personnel file will be asked to sign a notation in the file documenting the date the member reviewed the file. When the member refuses to do so, the member showing the file will note and sign the refusal.

1026.9 INFORMATION REMOVAL

A member seeking the removal of any item from their personnel file shall file a written request to the Chief of Police through the chain of command.

The Department shall thereafter remove any such item if appropriate or within 30 days provide the member with a written explanation why the contested item will not be removed (GC §3306.5).

- (a) If the contested item is not removed from the file, the member's request and the Department's written response shall be retained with the contested item in the member's personnel file.

1026.10 AUTHORIZATION FOR INTERNAL ACCESS TO FILES

The Chief of Police and members of the Internal Affairs Bureau may access all personnel and internal investigation files maintained by the Department.

Members of the Personnel Section and staff members may access master personnel files but not Internal Affairs files.

Supervisory personnel may only access divisional files maintained on their subordinates.

Access to files other than stated above is prohibited except with the permission of the Chief of Police.

1026.11 DIVISIONAL PERSONNEL FILES

1026.11.1 FILE ORGANIZATION

Divisional Personnel Files shall be organized according to the protocols established in this order. Supervisors are responsible for ensuring that the files are current at all times and shall review Divisional File contents for each new employee assigned to them (e.g. patrol matrix change).

- (a) The file folder should be the red press board style with three divided sections.
- (b) The inside of the front cover should contain personnel file content logs (the top document) listing contents in chronological order, all other administrative documents not otherwise specified in the order, and the member's personal data sheet. These administrative documents do not need to be listed on the file content log.
- (c) The page opposite the inside of the front cover should contain evaluations only.
- (d) The center section should contain only documents which are going to be purged after being referenced in the member's next evaluation.
- (e) The inside of the back cover should contain all commendations, positive comments, and neutral documents.
- (f) The page opposite the inside back cover should contain documents including disciplinary actions, documented oral counseling, letters of counseling, etc.
- (g) Each new document entered into the folder shall be logged with the exception of the documents listed under #2 above.

Each supervisor responsible for completing the employee's performance evaluation shall determine whether the records of any prior sustained disciplinary actions should be retained beyond the statutory period for reasons other than pending litigation or other ongoing legal proceedings.

1026.11.2 MISCELLANEOUS FOLDER PROTOCOLS

All documents, except those temporarily maintained in the center section, should be attached with the folder clasps in reverse chronological order (i.e., the most recent document on top).

All documents containing adverse comments must be signed and dated before being inserted. All documents with non-adverse comments should be signed to reflect that they were seen by the member, but signature is not mandatory.

Copies of supervisor's report of injury, sick leave correspondence, return to work documents, etc. need not be kept in the Divisional File unless they are related to some other problem (e.g., excessive sick leave; sick leave abuse, etc.).

Training documents are normally not included and should be forwarded to the Personnel Section. When a training document is of such significance that it should be retained in the Divisional File, it should be included with the administrative documents inside the front cover unless it is attached to another document as part of a disciplinary or other administrative action.

1026.11.3 TRANSFER OF DIVISIONAL FILES

Within thirty days of a reassignment of a member to a different unit, section, or bureau, or District, Divisional Files, along with a current annual, or exit evaluation shall be forwarded to the member's new commander.

When a member terminates their employment with the Department, the contents of the Divisional File shall be forwarded to the Personnel Section within thirty days of the departure.

1026.12 FILE ENTRIES

All adverse entries into personnel files shall be governed by the provisions of Policy §340. Commendations should contain the signature and date of review of the member before being entered into their file. At a minimum, signatures should be contained on the last page of multi-page documents. Neutral entries (e.g., training certificates, attendance logs, etc.) need not be signed or acknowledged before being entered into a file. Members may attach a response to adverse entries consistent with Policy §340.

Entries of other than neutral documents into divisional personnel files shall be made only after the member's commander has had an opportunity to review the document(s).

1026.13 RETENTION PERIODS AND PURGING OF FILES

Formal citizen complaints, final orders of discipline, Inquiry or Complaint forms, pursuit review memos, collision review memos and all related files not the subject of pending litigation or other ongoing legal proceedings shall be purged after five years from the date the file was closed (PC §832.5).

The five-year retention period for not sustained, exonerated or unfounded internal affairs investigations shall begin on the date the file was closed.

All sustained investigations, not subject to pending litigation or other ongoing legal proceedings, shall be purged after 15 years from the date the file was closed.

All sustained investigations, of serious misconduct as defined in Policy § 376, not subject to pending litigation or other ongoing legal proceedings, shall be purged after 15 years from the date the file was closed.

The Internal Affairs Commander is responsible for tracking final orders of discipline and shall provide written notification via email to the Personnel Section (Master File), the affected Bureau/District (Divisional File), and City Hall Personnel advising them to purge relevant files not related to pending litigation or ongoing legal proceedings.

Documented Oral Reprimands (DOR's) unless otherwise noted in this Policy shall:

- (a) Include a date for review with the employee;
- (b) Be placed only in the employee's divisional file for a period of one year from the date of service;
- (c) Be removed from the member's file when the supervisor concludes that the intended objective of the reprimand has been achieved.

Letters of Counseling (LOC's) unless otherwise noted in this Policy shall:

- (a) Include a date for review with the employee;
- (b) Be placed only in the employee's divisional file for a period of one year from the date of service;
- (c) Not refer to any future corrective or disciplinary action(s) anticipated or threatened; and
- (d) Be removed from the member's file when the supervisor concludes that the intended objective of the counseling has been achieved.

Formal and medium level commendations shall be purged from all files after five years.

Minor commendations placed in the divisional file should be included in the annual evaluation and returned to the member at the end of the evaluation period. PIE forms which are not part of a more permanent disciplinary or commendatory action should not be retained beyond the conclusion of the evaluation period.

The dates that documents are purged, according to these criteria, should be listed on the content log and returned to the member.

1028.1 POLICY

The Department will provide equal opportunity to all eligible employees to apply for assignments in the following divisions:

- (a) Office of the Chief Division;
- (b) Patrol Division;
- (c) Support Division;
- (d) Investigations Division; and
- (e) Administrative Division.

1028.1.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance and understanding for the special unit selection process within this Department.

1028.2 GUIDELINES FOR THE SELECTION PROCESS

The selection process of officers for assignments shall consist, at a minimum, of an oral interview combined with a review of disciplinary history, and may be expanded to include testing components related to the unique nature of the assignment. Corrective measures taken against the employee, to include any Letters of Counseling (LOC) or Documented Oral Reprimands (DOR), may be considered during the selection process. However, LOC's or DOR's beyond the date of expiration may not be considered during the selection process.

Members shall be given reasonable notice prior to their interview.

Candidates shall not be numerically ranked as a result of the selection process, but shall be deemed "qualified" or "not qualified" for a specific position assignment. The results of the selection process, along with the selection panel's recommendations, shall be forwarded to the Chief of Police for approval/disapproval.

1028.3 FREQUENCY AND STATUS

At a minimum, the selection process may be conducted once a year to coordinate the filling of pending vacancies and matrix processes. Candidates deemed "qualified" as a result of the selection process for a specific position assignment shall retain the "qualified" status for one (1) year from the date of the interview, which shall be tracked by the affected Bureau Commander.

1028.4 SELECTION PANEL COMPOSITION

At a minimum, the selection panel shall consist of the following:

- (a) Two supervisors / commanders from the affected bureaus

1028.5 ORIENTATION

Selection panel members shall receive orientation from the affected Bureau Commander on appropriate selection questions, related selection components, discussion topics, interviewing techniques, etc. Orientation shall be conducted prior to scheduled interviews and related selection components.

1028.6 RECORD KEEPING

All announcements, interview questions, notes and rating sheets shall be submitted to the affected Bureau Commander, and shall be retained on file for three years.

1030 Employee Commendations

1030.1 POLICY

The Fresno Police Department rewards our members for creativity, hard work, and being responsive to the needs of the community and the Department. This policy identifies those valued members that make significant contributions through their work efforts.

1030.1.1 PURPOSE AND SCOPE

Special recognition may be in order when a member performs their duties in an exemplary manner. This policy provides general guidelines for the commending of exceptional member performance. Supervisors shall note all written and higher commendations in the member's performance evaluation covering the time period during which the commendation is awarded.

1030.2 ACHIEVEMENT AWARDS

Achievement awards are commendations given in recognition of achieving an established level of proficiency, or for attaining an established level of performance.

1030.3 COMMENDATIONS

1030.3.1 WRITTEN COMMENDATIONS

A written commendation may be given for an act or performance level that is deserving of special recognition. Written commendations shall be given to the receiving member, with a copy entered in the member's personnel file.

When a supervisor or manager is made aware of performance by a subordinate that appears deserving of a written commendation, the supervisor shall prepare a letter of commendation for the Chief of Police, or designee's signature. The supervisor shall forward the document through their commander to the Chief of Police, or designee.

When information is received from a citizen that a member has performed in an exemplary manner, the information shall be forwarded to the member's supervisor. The supervisor may prepare a recommendation for commendation or may issue an oral commendation and enter copies of the information received in the member's personnel file.

1030.3.2 PEER RECOGNITION PROCESS

Any member may commend another member for an act or performance level that the observing member believes is deserving of special recognition. A Peer Recognition Form may be completed by the issuing member and given to the receiving member. The receiving member may sign the form and give a copy to their supervisor. The supervisor shall review the form and determine whether the recognition is warranted. The supervisor will then forward the form to their commander. The commander will determine whether the form will be placed in the receiving member's divisional file. The commander may also recommend a higher level of commendation.

1030.4 ACHIEVEMENT AWARDS

Achievement awards are commendations given in recognition of achieving an established level of proficiency, or for attaining an established level of performance. Achievement awards shall be documented and entered in members' personnel file. The Special Awards Recognition Officer (SARO) has the authority to issue achievement awards upon the recommendation of a supervisor, with the approval of the Chief of Police, or designee.

1030.4.1 VC 10851 PINS

VC 10851 Pins are awarded to officers who either recover 12 stolen vehicles, three of which have suspects in custody, or recover six stolen vehicles, all of which have suspects in custody. In addition, the pin will be awarded to officers who develop information about an auto theft ring in which there are ten vehicles recovered and at least two suspects arrested. The recoveries must be within any 12-month period. When a member qualifies for a VC 10851 pin, they shall forward the relevant VC 10851 reports to the SARO for processing.

1030.4.2 VC 23152 PINS (SEE RCTB 07-05)

VC 23152 Pins are awarded to officers who make a designated number of arrests for DUI. Officers are awarded different pins based on the number of DUI arrests made during their career: 25 arrests (white pin) ; 100 arrests (blue pin) ; 200 arrests (red pin) ; 300 arrests (silver pin); and 500 arrests (gold medal and pin). The arresting officer listed on the DMV officer's statement/admin-per-se will receive credit for the arrest. DUI's will be tracked by the Traffic Bureau and the SARO will be notified when an officer qualifies for a pin or medal. The DUI Recognition is a career achievement award and is not subject to the 12-month time regulation as with the VC 10851 award.

1030.4.3 LATENT PRINT PINS

Latent Print Pins are awarded to members who have made six latent print lifts within a twelve-month period resulting in suspect identification. When a member qualifies for a latent print pin, they shall forward a memo containing relevant case numbers to the SARO for processing.

1030.4.4 RECOVERED FIREARMS PINS

Recovered Firearms Pins are awarded to officers who recover firearms, involving 10 separate incidents, which led to arrests. The recoveries must be within any 12-month period, and eligibility is retroactive to January 1, 2012. When a member qualifies for a Recovered Firearms Pin, they shall forward the relevant reports to the SARO for processing.

Note: Firearms booked pursuant to a WIC 5150 hold, or for safekeeping (i.e. DV related incident), will not be counted towards eligibility for this award. Each incident, regardless of the number of firearms seized or involved suspects, shall count towards one recovery. When a firearm recovery is made by a double unit, the credit will be equally divided between the officers (.5 each), or they may mutually decide to let one officer take the whole credit.

1030.4.5 SENTINEL AWARD

Sentinel award ribbons are awarded to members who have served 10 cumulative years in patrol as an officer and/or sergeant. Subsequent awards will be issued for every additional five years of service in patrol. When a member qualifies for a sentinel ribbon, they shall forward a memorandum to the Personnel Bureau for processing and verification.

1030.5 MAJOR COMMENDATIONS

A major commendation and award may be given for the outstanding performance of duty or for an action involving commendatory bravery. Such commendations shall include the conferring of a Department medal and citation, along with documentation placed in the member's personnel file. When a supervisor is made aware of performance by a subordinate that appears deserving of a major commendation, the supervisor shall prepare a recommendation describing the incident and forward it along with any related documentation through their commander to the Chairperson of the Commendation Board for consideration. The Commendation Board shall be convened as needed by the Chairperson to review recommendations for commendations.

The Commendation Board consists of the following personnel, who will serve at the pleasure of the Board Chairperson:

- (a) A deputy chief selected by the Chief of Police, or designee to act as Board Chairperson;
- (b) A captain selected by the Chief of Police, or designee;
- (c) A lieutenant selected by the Chief of Police, or designee;
- (d) A sergeant selected by the FPOA;

- (e) Two police officers selected by the FPOA;
- (f) A civilian manager selected by the Chief of Police, or designee; and
- (g) The SARO will act as secretary to the board, and who will coordinate meetings of the Board.

The board shall be responsible for evaluating the recommendation and for making their own recommendation to the Chief of Police, or designee as to the appropriate type and degree of commendation to be given. Their recommendation shall be forwarded to the Chief of Police, or designee for final approval. When the Chief of Police or designee decides on a written commendation, it shall be issued from that office. When a major commendation is to be given, arrangements for the presentation shall be handled by the SARO. Below is a listing of the Fresno Police Department Major Commendations:

1030.5.1 MEDAL OF VALOR

The Medal of Valor is the highest commendation awarded by the Department. It may be awarded to members who display extreme courage while consciously facing mortal danger during a police action in an effort to provide protection or preservation of life.

1030.5.2 MEDAL OF MERIT WITH VALOR

The Medal of Merit with Valor may be awarded to members who distinguish themselves by bravery or heroism during a police action, which is above and beyond the normal demands of duty. It is differentiated from the Medal of Valor in that the element of mortal danger is not present.

1030.5.3 MEDAL OF MERIT FOR MERITORIOUS SERVICE

The Medal of Merit for Meritorious Service is awarded to members for exceptional performance in other than a police action. Unlike the Outstanding Achievement Award, the Medal of Merit is reserved for projects of a larger scope, such as the conception or development of a new unit, program, or process which has greatly benefited the City, Department, and/or the law enforcement profession.

1030.5.4 OUTSTANDING ACHIEVEMENT AWARD

The Outstanding Achievement Award is given to members for exceptional performance or career achievement in an assignment which is clearly above that which is normally expected, and which has contributed materially to the success of a unit, project or operation.

1030.5.5 EXCEPTIONAL PERFORMANCE RIBBONS

An Exceptional Performance Ribbon is awarded to members who have performed above and beyond what is normally expected in the member's current assignment. Exceptional Performance Ribbons may also be given for the performance of a Unit which results in a significant accomplishment beyond the typical function of that unit. Exceptional Performance Ribbons include:

- (a) Tactical Ribbon awarded for a significant tactical operations or tactical incident(s);
- (b) Operational Ribbon awarded for a significant operational event or administrative function which appreciably improves some aspect of service delivery for the agency or enhanced safety to the Community; and
- (c) Investigative Ribbon awarded for a significant investigation, or series of investigations, resulting in a notable arrest and conviction.

Note: In the event a member receives more than one ribbon award of the same type, the second ribbon bar shall bear a bronze star in lieu of a second ribbon on the uniform. Upon the fifth bronze star being awarded, the pin will bear a silver star. Upon a fifth pin bearing a silver star being awarded, then a pin bearing a gold star will be issued.

1030.5.6 TACTICAL DE-ESCALATION RIBBON

The Tactical De-Escalation Ribbon is awarded to members who have distinguished themselves by employing exceptional tactical skills or verbal approach or techniques to de-escalate any deadly force situation resulting in the saving or sustaining of a human life. This award acknowledges our personnel's outstanding performance, often volatile or dangerous encounters while displaying the values of our agency.

Note: In the event a member receives more than one ribbon award of the same type, the second ribbon bar shall bear a bronze star in lieu of a second ribbon on the uniform. Upon the fifth bronze star being awarded, the pin will bear a silver star. Upon a fifth pin bearing a silver star being awarded, then a pin bearing a gold star will be issued.

1030.5.7 LIFESAVING MEDAL WITH VALOR

The Lifesaving Medal with Valor is awarded to members who meet the lifesaving criteria and distinguish themselves by an act of bravery or heroism above and beyond the normal demands of duty.

1030.5.8 LIFESAVING MEDAL

The Lifesaving Medal is awarded to members whose immediate life sustaining actions result in the saving of human life. The action must be personally performed by the member and must be confirmed by medical personnel (when applicable), or by the member's supervisor, as a life sustaining or life extending action without which an apparent loss of life could have resulted.

1030.5.9 VAN METER AWARD

The Van Meter Award is given in memory of Officer Harry Van Meter, who was the first Fresno Police Officer to be killed in the line of duty, February 21, 1907. The Van Meter Award may be given to an officer who is seriously injured in the performance of duty. The injury must be a result of unlawful force aimed at the officer which could have resulted in death.

1030.5.10 SAXON AWARD

The Saxon Award is given in honor of K-9 Saxon, who was the first Fresno Police Service Animal to be seriously injured in the line of duty, August 22, 2002. The Saxon Award may be given to a police service animal that is seriously injured in the performance of duty. The injury must be a result of unlawful force aimed at the animal, or it's handler, which could have resulted in death.

1030.6 WEARING UNIFORM PINS (NOT COVERED IN POLICY 1046-UNIFORM STANDARDS)

Members are allowed to wear Department issued pins or those pins mentioned in this order. Pins and medals issued by non-department entities may be worn with the written approval of the members' Division Commander. Refer to the Department's Uniform Specification List for wearing of awards.

1030.7 REPLACEMENT OF PINS/MEDALS

Members can request a replacement pin or medal from the Office of Media and Community Engagement. The member will be responsible for paying the current cost of the replacement.

1030.8 RECOGNITIONS

1030.8.1 EMPLOYEE OF THE QUARTER

It is the responsibility of each commander/supervisor to nominate members (sworn or civilian) for Department Employee of the Quarter. Nominations may be submitted in writing by any member (co-workers, supervisors or managers) and forwarded to the division commander of the nominated member. Commanders are to submit the name and written nomination of their nominee to the division commander of the nominated member. The written nomination shall document the member's achievements, special assignments, projects, professional development, and civic involvement. Executive staff will review the nominations and then forward the name of the selected members to the Chief of Police, or designee.

The selected members will be presented with a Certificate of Appreciation at a designated City Council meeting.

1030.9 RECOGNITION FOR CITIZENS

1030.9.1 WRITTEN COMMENDATION

When any member feels the actions of a citizen warrant commendation, the member may prepare a letter of commendation for the Chief of Police, or designee's signature. The letter of commendation shall be forwarded through the chain of command to the Chief of Police, or designee.

1030.10 MAJOR COMMENDATION AND ACHIEVEMENT AWARD CEREMONY

The Fresno Police Department will hold a major commendations / achievement awards ceremony annually. This ceremony will present major commendations and achievement awards to members for their actions and accomplishments that occurred during the previous calendar year. When a member is unable to attend the ceremony, their medal will be accepted by the nominating supervisor or the member's designee. Other major commendation ceremonies may be added to meet the needs of the Department as directed by the Chief of Police.

Fresno Police Department Policy Manual
Fitness for Duty & Employee Intervention

1032.1 POLICY

All officers are required to be free from any physical, emotional, or mental condition, which might adversely affect the exercise of peace officer powers.

1032.1.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure that all members of this Department remain fit for duty and able to perform their job functions (Government Code §1031).

1032.1.2 FITNESS FOR DUTY

A member may be scheduled for consultation with a medical service provider upon recommendation of the member's Division Commander and the concurrence of the Administrative Division Commander, when a member's behavior, actions, or performance is such that a reasonable person would have concerns regarding fitness for duty, the member's personal safety, or the safety of others. When a member is referred for a mental health or physical assessment to determine fitness for duty, the medical service provider will submit a report directly to the Chief of Police or a designated representative, and will report only diagnosis and prognosis pertaining to the member's fitness for duty.

1032.2 EMPLOYEE RESPONSIBILITIES

- (a) It shall be the responsibility of each member of this Department to maintain good physical condition sufficient to safely and properly perform the duties of their job function;
- (b) Each member of this Department shall perform their respective duties without physical, emotional, and/or mental constraints;
- (c) During working hours, all members are required to be alert, attentive, and capable of performing their assigned responsibilities;
- (d) Any member who feels unable to perform their duties shall promptly notify a supervisor. In the event that a member believes that another member is unable to perform their duties, such observations and/or belief shall be promptly reported to a supervisor.

1032.3 SUPERVISOR RESPONSIBILITIES

- (a) A supervisor observing a member or receiving a report of a member who is perceived to be unable to perform their duties shall take prompt and appropriate action in an effort to resolve the situation;
- (b) When feasible, the supervisor should attempt to ascertain the reason or source of the problem and in all cases a preliminary evaluation should be made in an effort to determine the level of inability of the member to perform their duties;
- (c) In the event the member appears to be in need of immediate medical or mental health treatment, a District Commander shall be notified all reasonable efforts should be made to provide such care;
- (d) The District and Bureau Commanders will make a joint determination as to whether or not the member should be temporarily relieved from their duties;
- (e) The Chief of Police shall be promptly notified in the event that any member is relieved from duty.

1032.4 NON-WORK RELATED CONDITIONS

Any employee suffering from a non-work related condition which warrants a temporary relief from duty may be required to use sick leave or other paid time off (PTO) in order to obtain medical treatment or other reasonable rest period.

1032.5 WORK RELATED CONDITIONS

Any employee suffering from a work related condition which warrants a temporary relief from duty shall be required to comply with personnel rules and guidelines for processing such claims.

1032.6 LIMITATION ON HOURS WORKED

Absent emergency operations, members are limited to an accrued total of 70 work hours, including mandatory court appearances, within a work week. Of the 70 total work hours, members are not to exceed 16 hours of outside employment. Additionally, members shall have at least one non-work day during each work week.

Except in very limited circumstances, members should have a minimum of 8 hours off between shifts. Supervisors should give consideration to reasonable rest periods and are authorized to deny overtime or temporarily relieve from duty any member who has exceeded the above guidelines.

Limitations on the number of hours worked apply to shift changes, shift trades, rotation, hold-over, training, general overtime and any other work assignments.

1032.7 EMPLOYEE INTERVENTION PROGRAMS

Employee Intervention Programs (EIP's) are designed to provide support in a confidential and trustworthy environment, equipping and enabling our members to effectively address professional and personal challenges, thereby allowing them to better serve the community. By providing a variety of programs and levels of participation, the Department encourages personnel to access the services that best meet their individual needs. All EIP's are staffed by personnel trained in law enforcement critical incidents, stress management, and peer support.

1032.7.1 COMPANION OFFICER PROGRAM

The Companion Officer Program is designed to provide peer support to members, when they have been subjected to a traumatic incident, or when otherwise requested. Companion Officers also provide informal peer support to members dealing with the day-to-day challenges and cumulative stress of the law enforcement profession.

The use of the Companion Officer Program is voluntary. When a request for a companion officer is made, Duty Office personnel shall notify the Companion Officer Program Coordinator and contact a companion officer(s) to respond. Off-duty companion officers should relieve any on-duty companion officers as needed. The assigned companion officer should remain with the involved member as long as needed or requested.

1032.7.2 CHAPLAIN PROGRAM

The Fresno Peace Officers Chaplaincy (FPOC) provides spiritual crisis support to law enforcement personnel and the community. FPOC may also be used for the same purpose and within the same guidelines as the Companion Officer Program.

The FPOC also provides support, counseling, and referral services from their office. Their services are provided to all Department members.

1032.8 STRUCTURED ASSISTANCE FOR VALUED EMPLOYEES (SAVE)

SAVE is a mandatory intervention program for members who are demonstrating observable difficulties dealing with traumatic events, professional challenges, or personal problems, utilizing approved mental health professionals and peer groups. The program relies on supervisors to identify potential problems before they become discipline issues. SAVE will provide alternatives and solutions for individuals through a process which ensures confidentiality.

SAVE is designed to address patterns of behavior and stress incidents before they manifest themselves into discipline. Conduct which may result in discipline shall be investigated consistent with existing policy guidelines. SAVE does not modify, alter, or change these guidelines. SAVE is not a substitute for the disciplinary process. The purpose of SAVE is to:

Provide training for first line personnel, supervisors, and staff, to identify stressful events and behavioral indicators before discipline is warranted; and

- (a) Provide resource options to assist members in dealing with challenges in both their personal life and at work.

1032.8.1 SUPERVISOR RESPONSIBILITIES WITH SAVE

If a supervisor observes a pattern of behavior in a member that suggests there may be a stress related issue, the supervisor shall:

- (a) Advise the member that they will be meeting to discuss possible involvement in the SAVE program. Members will be provided adequate time before the meeting to consult with a Companion Officer or other Department member regarding questions they may have about the SAVE program;
- (b) While the initial SAVE meeting is mandatory, members are not obligated to discuss their personal issues with the supervisor, but may choose to do so;
- (c) Meet individually with the member to discuss the behavior and attempt to determine if counseling intervention may be appropriate;
- (d) If counseling intervention is appropriate, complete the SAVE Form which can be located on the LAN. The form requires the following information:
 - 1) Behavioral observations of supervisor;
 - 2) Information learned that is relevant to the behavior (e.g., any stressors or other challenges that may be present); and
 - 3) Requests for information from existing data sources that may indicate physical manifestations of stress; and
- (e) Only report the absence or presence of factors within the last six months, with a brief summary for each. Data sources may include:
 - 1) Prior SAVE referrals (based on information provided by the member);
 - 2) Sick leave review;
 - 3) Citizen complaints;
 - 4) On-duty accidents;
 - 5) IA investigations; and
 - 6) Performance evaluations, training memos, commendations, and letters of appreciation.
- (f) Once the information is collected and the package completed, the supervisor will forward the package to the ESC and request a log number. The ESC and the selected licensed mental health clinician will, as the SAVE Committee, review the package and determine whether or not intervention is warranted.
- (g) If intervention is warranted, the SAVE Committee will recommend a course of action.

Note: Prior to accessing SAVE, the supervisor must have attended SAVE training.

1032.8.2 SAVE REVIEW COMMITTEE

The SAVE Review Committee will consist of the following:

- (a) The Employee Services Coordinator; and
- (b) A licensed mental health clinician experienced with law enforcement issues.

1032.8.3 SAVE REVIEW COMMITTEE RESPONSIBILITIES

The SAVE Review Committee will determine whether all the information provided meets the threshold set for intervention. The committee may find that:

- (a) No intervention is warranted (supervisor notified); or
- (b) Intervention is warranted and recommend a course of action.

1032.8.3 MANDATORY SAVE MEETING WITH A LICENSED MENTAL HEALTH CLINICIAN

After review of the information, the SAVE Review Committee may recommend the member attend stress management training and/or meet with a licensed mental health clinician for additional assessment. This meeting is mandatory and subject to the following:

- (a) Prior to scheduling a mandatory meeting with a licensed mental health clinician, the Administrative Division Commander must concur with the recommendation;

- (b) The ESC shall personally deliver the SAVE package to the licensed mental health clinician. The ESC will schedule the appointment with the licensed mental health clinician and notify the member of the appointment date and time;
- (c) While this meeting is mandatory, members are not obligated to discuss their personal issues with the licensed mental health clinician. However, members are strongly encouraged to speak with the licensed mental health clinician as the meeting is strictly confidential and the member enjoys privileged communication with the licensed mental health clinician;
 - 1) The licensed mental health clinician will discuss the issues identified, and determine what steps or information the member has taken to address their issues;
 - 2) This information, combined with the findings of the SAVE Committee will form the basis for the licensed mental health clinician's recommendations to the member on options available to them;
 - 3) Such options could include referral to the Department EIP's, or referral to professional counseling;
 - 4) Members are not mandated to participate in the recommended options;
 - 5) The licensed mental health clinician will not provide any report about the content of the meeting, written or verbal, to any Department member or anyone else.
 - 6) The licensed mental health clinician will only notify ESC that the member attended the mandatory meeting.

Note: For the purpose of this order, a licensed mental health clinician will be defined as a psychologist, licensed clinical social worker or a licensed marriage & family therapist. In addition to licensure, a qualified mental health clinician shall have had specific training and/or experience working with law enforcement.

Members shall meet with the responding licensed mental health clinician in an on-duty capacity. When follow-up meetings are required due to a problem not related to City employment, the member shall schedule the visits during off-duty time, or use sick leave, vacation, or leave without pay as appropriate.

1032.8.4 STRESS MANAGEMENT TRAINING

When the SAVE Review Committee finds intervention is warranted, the ESC may schedule training with the Training Bureau. When it is determined stress management training is appropriate, the ESC will;

- (a) Notify the member of the scheduled date and time for the training;
- (b) After the member has attended the training, notify the referring supervisor. Once the training is complete, the package will be disposed of.

Where training is mandated as a result of the SAVE review process, this action will be in the form of an order. Failure to follow this order will subject the member to discipline. This issue is separate from the conduct or events that warranted the SAVE review. The ESC will ensure that the member follows this order, to the best of their ability. The ESC will notify the Administrative Division Commander in the event the member fails to follow the order.

1032.8.5 SAVE RECORDS

The ESC is notified the appointment with the licensed mental health clinician was kept and/or verifies the member attended training. The ESC then closes out the file, and securely discards the entire package for shredding. No permanent record of the SAVE process, other than the numbered tracking log shall be maintained or recorded anywhere.

1032.9 MENTAL HEALTH REVIEW

1032.9.1 MANDATORY REVIEWS

Members involved in one or more Officer Involved Shooting (OIS) or other intentional use of deadly force (e.g. vehicle) are required to meet with a licensed mental health clinician before returning to full duty. These reviews will be scheduled by the Employee Services Coordinator (refer to Policy §310).

1032.9.2 OPTIONAL REVIEWS

Members involved in other critical or traumatic incidents may be required to meet with a licensed mental health clinician before returning to full duty. Situations that may reasonably warrant a meeting with a licensed mental health clinician include, but are not limited, to the following:

- (a) On-duty motor vehicle collisions resulting in serious injury or death to any person;
- (b) Discharge of a firearm at an officer when injury results;
- (c) Incident where a member causes serious injury to another person by means other than a firearm (e.g., baton, take down hold); or
- (d) The member is involved in a physical confrontation in which they are seriously injured; or
- (e) A member is involved in an incident which could be considered disturbing such as child abuse, fatal traffic collisions, life threatening disturbances, in custody deaths, or any other significant traumatic event.

When a staff member determines that an optional review is appropriate, concurrence of the involved member's Bureau and Division Commanders is required.

Critical Incident Stress Debriefings (CISD) may also be considered for the above described circumstances, subject to approval by the Administrative Division Commander. The Employee Services Coordinator (ESC) will be responsible for coordinating CISD's approved by the Administrative Division Commander.

1032.9.3 IMMEDIATE REVIEWS

When an immediate review or response is determined necessary for an on-duty member, the recommending staff member shall seek the concurrence of the involved member's Division Commander. Upon agreement that an immediate review is necessary, the staff member will advise the Duty Office to contact a currently designated licensed mental health clinician. The staff member or a supervisor shall be available to brief the licensed mental health clinician. The Duty Office will advise the ESC of the member's need for an immediate review as soon as practical. The ESC will be responsible for coordinating any follow-up needs.

1032.10 EARLY ALERT SYSTEM (EAS)

The Department recognizes that careful monitoring of employee behavior is a necessary element of effective personnel management. In order to maximize the Department's ability to detect and correct deficiencies before they become significant performance issues, an Early Alert System (EAS) has been developed.

EAS is intended to provide a means of positive, confidential, non-disciplinary intervention, primarily in the form of training and counseling to assist members with performance problems. The fact that an EAS report is generated regarding a member does not necessarily indicate a problem with that member's behavior.

1032.10.1 EAS EVALUATION CRITERIA

The following incidents, events and documents will be included in the EAS review process:

- (a) Internal Affairs Investigations with a finding of Sustained or Not Sustained (final disposition);
- (b) Inquiry/Complaint Forms;
- (c) Vehicle Pursuits that are not within policy (for individual members);
- (d) Vehicle accidents while on duty or involving Department owned/leased vehicles when the member is at fault;
- (e) Reportable uses of force resulting in injury or complaint of pain; and
- (f) Risk management claims not already included in the above.

1032.10.2 INFORMATION PROCESSING AND REPORTING REQUIREMENTS

The Internal Affairs Bureau is responsible for entering the data from the above incidents, events and documents into IA PRO, and for generating reports to be forwarded to the Administrative Division Commander.

Reporting requirements for employee conduct and behavior are contained in Policy §1020-Personnel Complaints, Policy §314-Vehicle Pursuit Policy, Policy §502-Vehicle Accidents, and Policy §300-Use of Force.

1032.10.3 CRITERIA FOR EAS REPORTS

An EAS report will be generated when a member is accused in three IA investigations where the findings are Sustained or Not Sustained, or involved in three use of force incidents resulting in injury or complaint of pain, or involved in a combination of any six incidents involving IA investigation(s), inquiry/complaints, out of policy vehicle pursuits, at fault vehicle accidents, risk claims, and use of force incidents within a rolling six month time period. These criteria can be modified by the Chief of Police or their designee with the concurrence of the Fresno Police Officers' Association (FPOA).

1032.10.4 ADMINISTRATIVE REVIEW

When a member meets the criteria, a confidential EAS report will be prepared by the IA Commander containing a synopsis of the incidents for the rolling six month period. The EAS report will be forwarded to the Administrative Division Commander. The Administrative Division Commander will review the totality of the circumstances (member's assignment, nature of the incidents, mitigating factors, etc.) contained in the EAS report.

If the Administrative Division Commander determines the member's behavior warrants further review, they shall assign a tracking number to the file and remove the member's name and other references which may cause identification of the member to occur. The Administrative Division Commander shall notify the EAS Committee to convene at the earliest opportunity to review the redacted report.

If the Administrative Division Commander determines the member's behavior does not warrant further review, they shall notify the IA Commander. The EAS report shall be given to the member for their retention or destruction. Should the member wish to discuss the EAS report they may contact Administrative Division Commander without going through their chain of command.

1032.10.5 EAS COMMITTEE

The EAS Committee shall be composed of a FPOA representative, a Department staff representative and a third party mutually agreed upon by the Chief of Police and the FPOA. Committee members serve a one year term, but can be reappointed for additional terms. The committee shall meet to discuss the report's contents and the need for intervention. A majority vote is required for intervention to occur. All meetings shall be held on a confidential basis.

1032.10.6 INTERVENTION MEETING

Upon a majority vote of the committee authorizing intervention, the report shall be returned to the Administrative Division Commander. The commander shall arrange for a personal meeting with the member to discuss their behavior and identify positive ways to address that behavior. The member shall be provided a copy of the EAS report prior to the meeting with the commander. Remedial training, referral to the Department's Employee Intervention Programs (EIP), peer support/counseling, and other methods which may be helpful in addressing the member's behavior will be explored. An agreed upon action plan may be prepared by the Administrative Division Commander and the member. If a plan is developed, the plan will only be provided to the member. The Department will not maintain the plan or any written document regarding the EAS review in any file(s). The Administrative Division Commander will not track the member's progress nor will punitive action result from the member's failure to follow the plan.

Once the meeting with the member occurs, the report shall be destroyed. No mention of the EAS review shall be made in a member's performance evaluation.

1032.10.7 ACCESS TO EAS REPORT

Access to the non-redacted EAS report shall be limited to the Chief of Police, IA Commander, IA senior secretary, Administrative Division Commander, Administrative Division Senior Secretary, and the affected member.

1032.10.8 ANNUAL EVALUATION OF THE EAS PROGRAM

Annually, the FPOA and the Administrative Division Commander will conduct a joint evaluation and review of the EAS program. The report will evaluate the overall effectiveness of the EAS program and review compliance with this policy. The report will also evaluate the effectiveness of remedial training, EIP, or any other method which was helpful in addressing a member's behavior.

The review, along with recommendations for improvement, will be submitted to the Chief of Police. To ensure confidentiality, names shall not be contained in the annual evaluation.

1032.10.9 ROLE OF FIRST AND SECOND LEVEL SUPERVISORS

EAS is not a substitute for the first and second level supervisors' duty to counsel, train, and/or discipline their assigned members. A member's acceptance into EAS is not indicative of a failure of the first and second level supervisors' ability to resolve personnel issues. However, it should serve as a reminder of the supervisor's important role when leading and directing Department members.

First and Second level supervisors have a variety of methods which may prevent members from becoming subject to the provisions of EAS. These methods include coaching, training, referral to the Department's EIP, SAVE program, peer support/counseling, corrective action (oral counseling, letter of counseling, oral reprimand, documented oral reprimand), and recommendation for disciplinary action (second level supervisors only).

1032.11 FITNESS FOR DUTY EXAMINATIONS

Whenever circumstances reasonably indicate that an employee is unfit for duty, the Chief of Police may serve that employee with a written order to undergo a physical and/or mental health examination in cooperation with the Personnel Bureau to determine the level of the employee's fitness for duty. The order shall indicate the date, time and place for the examination.

The examining physician or therapist will provide the Department with a report indicating that the employee is either fit for duty or, if not, listing any functional limitations which limit the employee's ability to perform job duties [Civil Code §56.10(c)(8)(A)]. If the employee places their condition at issue in any subsequent or related administrative action/grievance, the examining physician or therapist may be required to disclose any and all information which is relevant to such proceeding [CC §56.10(c)(8)(B)].

In order to facilitate the examination of any employee, the Department will provide all appropriate documents and available information to assist in the evaluation and/or treatment.

- (a) All reports and evaluations submitted by the treating physician or therapist shall be part of the employee's confidential personnel file.
- (b) Any employee ordered to receive a fitness for duty examination shall comply with the terms of the order and cooperate fully with the examining physician or therapist regarding any clinical interview, tests administered or other procedures as directed. Any failure to comply with such an order and any failure to cooperate with the examining physician or therapist may be deemed insubordination and shall be subject to discipline up to and including termination.
- (c) Once an employee has been deemed fit for duty by the examining physician or licensed mental health clinician the employee will be notified to resume their duties.

1032.12 CONFIDENTIALITY OF INFORMATION AND RECORDS

In general, all records resulting from mental health review or treatment shall be designated as confidential and afforded the same protection as other medical records.

When a member voluntarily seeks review under any of the aforementioned programs, all information remains confidential and shall not be reported to anyone, except when the member threatens to commit a crime of personal injury. When a member threatens to commit a crime of personal injury, the licensed mental health clinician will be required to make Tarasoff notifications (Refer to Policy §418 for Tarasoff notification requirements).

At the initial review between the licensed mental health clinician and the member, the licensed mental health clinician will provide the member with a statement, in duplicate, of the rules regarding the confidentiality of the review (s). The licensed mental health clinician and member will each sign the statement and the member will retain the original and the licensed mental health clinician the duplicate. When a member files a claim under Workers' Compensation for stress, emotional, or mental health injury, all records pertaining to the alleged claim and fitness for duty will be provided to the City.

1034.1 POLICY

Members should conform to the policies governing all Department employees that have been established by the City of Fresno and appropriate MOUs, regarding meals and breaks.

1034.1.1 PURPOSE AND SCOPE

Due to the nature of the Department's mission to provide continual law enforcement and related services to the community, the provisions to provide meal periods and breaks to all employees consistent with the laws and MOUs in place, can oftentimes be difficult or impossible. However, when possible, all accommodations will be made to make certain everyone is afforded a reasonable opportunity to exercise the right to a meal period and/or breaks.

1034.2 ON DUTY MEALS

The parameters governing hours of work are outlined in each applicable MOU, including any designated meal breaks. All sworn officers, either in uniform or in plain clothes, may take a meal break under the following conditions:

- (a) Officers must be in service and/or available by radio to respond to any call;
- (b) Generally no more than 30 minutes shall be allowed;
- (c) No more than two uniformed officers at any one time are allowed at the same restaurant; and
- (d) Members leaving their patrol units shall place themselves out "portable" via their MDS or by radio with their location.

The aforementioned provisions do not apply to personnel who are authorized in the MOU to have an uninterrupted meal breaks.

1034.3 BREAKS

Breaks apply to civilian members only and are subject to the following:

- (a) Two 15minute breaks are allowed during a shift (eight-hour or ten-hour);
- (b) One 15minute break for each four or more hours of overtime worked;
- (c) Breaks shall be scheduled by supervisors, consistent with workload, so as to minimize the disruption of service to the public;
- (d) Breaks shall not be taken in conjunction with meal breaks or accumulated for use at a later time;
- (e) Generally, breaks should be taken on the worksite;
- (f) When there is a need to exceed the designated 15minute time limitation, supervisory approval shall be obtained; and
- (g) Department vehicles shall not be utilized during breaks without prior supervisory approval.

1035.1 POLICY

The Department will provide, in compliance with the Fair Labor Standards Act and California Labor Code, reasonable break time and appropriate facilities to accommodate any employee desiring to express breast milk for the employee's nursing infant child, (29 United States Code §207 and Labor Code §1030).

1035.1.1 PURPOSE AND SCOPE

The purpose of this policy is to provide reasonable accommodations to employees desiring to express breast milk for the employee's infant child (LC §§1030).

1035.2 LACTATION BREAK TIME

A reasonable amount of break time should be permitted each time the employee has the need to express breast milk (29 USC §207; LC §1030). In general, lactation breaks that cumulatively total 30 minutes or less during any four-hour work period or major portion of a four-hour work period would be considered reasonable. However, individual circumstances may require more or less time. Such breaks, when feasible, should be taken at the same time as the employees' regularly scheduled rest or meal periods.

While a reasonable effort will be made to provide additional time beyond authorized breaks, any such time exceeding regularly scheduled and paid break time will be unpaid (LC §1030). Employees who exceed regularly scheduled and paid break time shall submit a time-off request via the OTTO system to their supervisor prior to the completion of the employee's shift.

Employees desiring to take a lactation break shall notify Dispatch or a supervisor prior to taking such a break. Such breaks may be reasonably delayed if they would seriously disrupt department operations (LC §1032). Once a lactation break has been approved, the break should not be interrupted except for emergency or exigent circumstances.

1035.3 PRIVATE LOCATION

The Department will make reasonable efforts to accommodate employees with the use of an appropriate room or other location to express milk in private. Such room or place should be in close proximity to the employee's work area and shall be other than a bathroom or toilet stall. The location must be shielded from view and free from intrusion from co-workers and the public (29 USC §207 and LC §1031).

Employees occupying such private areas shall either secure the door or otherwise make it clear to others that the area is occupied with a need for privacy. All other employees should avoid interrupting an employee during an authorized break, except to announce an emergency or other urgent circumstance.

Authorized lactation breaks for employees assigned to the field may be taken at the nearest appropriate private area.

1035.4 STORAGE OF EXPRESSED MILK

Any employee storing expressed milk in any authorized refrigerated area within the Department shall clearly label it as such and shall remove it when the employee ends their shift.

1035.5 REQUESTS FOR LACTATION ACCOMMODATION

Employees have the right to request lactation accommodations. When requesting a lactation accommodation, the employee shall submit their proposed accommodation, including a plan for specific break times, and a proposed plan for employees who are called out into the field.

If a break time or location accommodation cannot be provided, the supervisor shall provide the member with a written response regarding the reasons for the determination (LC §1034).

Employees who believe that their rights have been violated under this policy or have been the subject of discrimination or retaliation for exercising or attempting to exercise their rights under this policy, are encouraged to follow the chain of command in reporting a violation, but may also file a complaint directly with the Labor Commissioner (LC §1033).

1035.6 APPROVED LOCATIONS

Lactation breaks should be taken at the approved location nearest to the employees' work site. Employees assigned to Patrol Division may take their break at home when they reside within their assigned policing district. The following private locations have been approved to accommodate employees needing to express milk during a lactation break:

- (a) Northeast District Station –A designated room located within the Northeast Investigations Office;
- (b) Northwest District Station – A designated room located across from the gym;
- (c) Central District Station –A designated room located within the Central Investigations Office;
- (d) Southwest District Station – A designated room located next to the DST/DPU office;
- (e) Southeast District Station – A designated room located next to the briefing room;
- (f) Regional Training Center –RTC Sergeant's Office;
- (g) Headquarters – A designated room located within the Women's Locker Room (2nd Floor) TV room; and
- (h) Annex – A designated room located within the Women's Restroom (2nd Floor, east wing).

Lactation rooms or other locations should comply with the prescribed feature and access requirements of LC §1031.

1036.1 POLICY

Department members will utilize the Over-Time/Time-Off (OTTO) System to account for absences, additional time, or overtime earned, according to applicable MOU's. Members will utilize the Days-off System to account for regularly scheduled days off.

1036.1.1 PURPOSE AND SCOPE

The purpose of the OTTO and Days-off Systems is to accurately document time earned or time used by Department members and to provide timely processing of this information.

1036.2 RESPONSIBILITY FOR COMPLETION OF OTTO ENTRIES

OTTO entries are submitted to the Fiscal Affairs Bureau for registering the absence, additional time, overtime earned, and any leave of absence for all members.

Days-off System entries are submitted to the Fiscal Affairs Bureau on a biweekly basis for the payment of wages.

Employees are responsible for the accurate and timely submission of all OTTO and Days-off entries. The OTTO entries for pre-planned absences (e.g., annual vacation, FMLA, etc.) shall be submitted prior to the first day of absence. Employees are responsible for monitoring their leave balances to ensure time off is accurately deducted and there is time available prior to requesting time off.

1036.3 TIME REQUIREMENTS

All employees are paid on a bi-weekly basis usually on Friday with certain exceptions such as holidays. Days-off System entries shall be completed and submitted to the Fiscal Affairs Bureau by logging onto <http://daysoff.police.fresno/> no later than 8:00 a.m. on the Monday morning after first day of the pay period, unless otherwise specified. The acceptable method is to enter your days-off information via the intranet. This system is web-based, but only accessible INSIDE the PD network. A UserID and Password are required for access. The UserID is your PeopleSoft (Payroll) number. The Password is defaulted to your last name.

In addition, absence, overtime, and pay down requests shall be completed via the OTTO System and submitted to the Fiscal Affairs Bureau by logging onto <http://otto.police.fresno/>, no later than 8:00 a.m. on the Wednesday morning before the end of the pay period, unless otherwise specified.

As a courtesy to members, the Fiscal Affairs Bureau may send out a Department-wide voice mail each pay period indicating the due dates for such period. A written schedule shall be prepared and emailed Department wide once per year, usually in December, with the due dates for the full calendar period.

1036.4 SUPERVISOR RESPONSIBILITY

Supervisors are responsible for ensuring that OTTO entries are completed by employees assigned to them no later than the first day following a return from any leave of absence.

Non-patrol supervisors or their designee shall advise their commander of the work status of all assigned employees including any days off, sick leave, and leaves of absence.

Supervisor's shall review overtime and time-off requests a minimum of once during their shift. The supervisor who verifies the overtime earned shall verify that the overtime was worked before signing approval. It shall then be forwarded to the appropriate Commander/Manager for final approval.

1036.5 DIVISION/BUREAU COMMANDER RESPONSIBILITY

Commanders shall review overtime and time-off requests and forward to the Fiscal Affairs Bureau once approved.

1036.6 DUTY OFFICE RESPONSIBILITIES

The Duty Office shall record all Patrol absences on the daily detail sheet. A hard copy of this detail shall be sent to the district supervisors daily. The Duty Office shall submit the OTTO entry for all time off requests by patrol members, except pre-planned absences (e.g., annual vacation, FMLA, etc.).

1036.7 AUDITING

Commanders and managers shall periodically audit the attendance records for their personnel and submit a report to their Division Commander.

1036.8 RECORDS

The Administrative Manager shall ensure that accurate and timely payroll records are maintained as required by 29 Code of Federal Regulations §516.2 for a minimum of three years (29 CFR §516.5).

1036.9 DAYS OFF ACCOUNTING

On-duty employees shall submit a time-off request via the OTTO system to their supervisor prior to taking any time off from work. If an employee is granted leave while on days off, they shall complete a time-off request on the first day they return to work.

Employees shall not request or take any days off without first verifying they have sufficient hours in their account(s) to cover the type of leave they are requesting. Employees are expressly prohibited from requesting or taking a leave of absence which would result in a deficit in any of their leave accounts.

Members shall submit the Days-off System entries prior to the scheduled cutoff dates. The entry shall accurately reflect the member's days off. When there is a change in days off for a time period previously submitted, a new entry for the same time period shall be submitted electronically with the correct days off no later than the first working day after the change is identified. This will override the previously submitted days-off entry.

1036.10 ATTENDANCE VERIFICATION

Supervisors and managers shall periodically audit the attendance records for their personnel and submit a report to their division commander/bureau manager. Supervisors are responsible for tracking all leaves of absence and days off of employees assigned to them, along with ensuring the accuracy of the information. Supervisors shall reconcile all absences reported on the daily detail sheet with an appropriately completed OTTO request. When an OTTO request is not received for any leave of absence, the member shall be notified and directed to complete the OTTO request no later than the first day following a return from any leave of absence.

A time-off request submitted via OTTO received by a supervisor that has not been appropriately completed by a member shall be returned to the member to be completed correctly.

1036.11 OVERTIME DOCUMENTATION

1036.11.1 EMPLOYEES RESPONSIBILITY

Overtime requests should be submitted at the end of the member's shift whenever practical. If the overtime request submission is to be delayed beyond the end of the member's shift, then a supervisor shall be notified of the delay, the reason for the delay, and the anticipated submission date (e.g., after return from days off). Member's submitting a delayed overtime request shall do so via the OTTO system at the beginning of their next work shift.

When an overtime request has been delayed and the member is anticipated to be off for an extended period due to vacation, injury, or other acceptable reason prior to their next scheduled work shift, then the member shall make timely arrangements through their supervisor to have the overtime submitted through the business office for processing.

To avoid approval delays by supervisors and/or managers who are anticipated to be unavailable for extended periods, members may select an alternate supervisor and/or, manager to approve their request.

If the member is unable to submit a request due to the OTTO system being down, the member shall notify a supervisor that the system is down. Details of the overtime worked shall be provided to the supervisor and the member shall then submit the overtime request when the system is back on line.

1036.12 ACCOUNTING FOR PORTIONS OF AN HOUR

When accounting for less than a full hour, time worked shall be rounded down to the nearest tenth of an hour as indicated by the following chart:

TIME WORKED	INDICATE ON CARD
Less than 6 minutes	0.0 hour
At least 6 but less than 12 minutes	0.1 hour
At least 12 but less than 18 minutes	0.2 hour
At least 18 but less than 24 minutes	0.3 hour
At least 24 but less than 30 minutes	0.4 hour
At least 30 but less than 36 minutes	0.5 hour
At least 37 but less than 42 minutes	0.6 hour
At least 42 but less than 48 minutes	0.7 hour
At least 48 but less than 54 minutes	0.8 hour
At least 54 but less than 60 minutes	0.9 hour
60 minutes	1 hour

1036.13 COURT TIME

Refer to Policy §348.

1036.14 FLEX TIME

Members assigned to non minimum-staffing units may request and be assigned flexible hours of work. A member's supervisor may adjust hours of work under conditions set forth in the applicable MOU.

The occasional granting of a flex schedule shall be only for specific qualified purposes as determined by a Supervisor. Granting a long-term flex schedule shall require concurrence of the Bureau Commander. Personnel shall obtain their supervisor approval and submit an OTTO request for all Flex Time adjustments to their regular work schedules. All dates involving a flexing of a member's schedule should occur within the same pay period. Also refer to Policy §1040.

1036.15 RECORDS

The Administrative Manager shall ensure that accurate and timely payroll records are maintained as required by 29 CFR §516.2 for a minimum of three years (29 CFR §516.5).

1038.1 POLICY

The Department will compensate non-exempt employees who work authorized overtime either by payment of wages or by accrual of compensatory time off at the rate of time and one-half, or as otherwise specified in an applicable MOU.

In order to qualify for either, the employee must complete and submit an overtime request via the Over-Time/Time-Off (OTTO) System as soon as practical after overtime is worked. When the electronic system is not functioning, Scantron forms shall be completed.

1038.1.1 PURPOSE AND SCOPE

Because of the nature of police work, and the specific needs of the Department, a degree of flexibility must be maintained. The purpose of this policy is to assure timely and accurate overtime compensation is achieved for employees and to provide for adequate Department staffing needs.

1038.1.2 GUIDELINES

Members are not authorized to volunteer work time to the Department. Therefore time in excess of the normal work schedule will be compensated according to this policy.

All requests to work overtime shall be approved in advance by a supervisor. If circumstances do not permit prior approval, then approval shall be sought as soon as practical during the overtime shift and in no case later than the end of shift in which the overtime is worked.

The individual employee may request compensatory time in lieu of receiving overtime payment with the exception of those specifically pre-designated as cash only assignments.

The maximum number of hours for compensatory time is governed by current MOU's for each classification.

1038.2 EMPLOYEES RESPONSIBILITY

Employees shall complete an OTTO request after working the overtime and turn it in to a supervisor for approval.

Note: Failure to submit an OTTO request in a timely manner may result in a delay of compensation.

1038.3 ACCOUNTING FOR OVERTIME WORKED

Employees are to record the actual time worked in an overtime status. In some cases, the applicable MOU provides that a minimum number of hours will be paid, (e.g., two hours for court on regular duty days, three hours for automatic go and court appearances on regular days off, etc.). The supervisor shall confirm the actual time worked.

(Refer to Policy §1036 Use of Scantrons/OTTO/Days-Off System)

Fresno Police Department Policy Manual
Extra Duty & Off-Duty Employment

1040.1 POLICY

Departmental employees engaging in outside employment, who hold full time permanent positions, shall obtain an approved City of Fresno work permit through the Personnel Bureau prior to engaging in any outside employment. These provisions do not apply to policing Special Events or Contract Law Enforcement Services (CLES).

1040.1.1 PURPOSE AND SCOPE

In order to avoid actual or perceived conflicts of interest, approval of outside employment shall be at the discretion of the Chief of Police or their designee in accordance with the provisions of Fresno Municipal Code §3-102(b) and this policy.

1040.2 DEFINITIONS

Outside Employment - Wages, compensation or other consideration of value from another employer, organization, or individual not affiliated directly with this Department for services, product(s) or benefits rendered. For purposes of this section, the definition of outside employment includes those employees who are self-employed and not affiliated directly with this Department for services, product(s) or benefits rendered.

1040.3 WORK HOUR LIMITS

The work hour limits prescribed in the below sections shall not apply during an emergency situation as declared by the Chief of Police, or designee. Members shall track their work hours to ensure that they do not exceed limits established herein. Work hours and any OTTO submissions for time off or flexing shall be tracked on an Outside Employment Calendar. The calendar shall be submitted to the employee's immediate supervisor by the 5th of the month following any hours worked. After approving the calendar, the supervisor will place the Outside Employment Calendar in the employee's divisional file for two years.

Daily Limit – Recognizing the need for reasonable rest periods, members may not work more than fifteen (15) hours of any type within a 24-hour period. During the 24-hour period, at least eight (8) consecutive hours of rest must occur.

Exception: Calls for service and mandatory court appearances shall be completed even though the 15-hour limit may be exceeded.

Weekly Limit – Members are limited to an accrued total of 70 work hours, including mandatory court appearances, within a workweek, unless expressly authorized by the Chief of Police, or designee. Of the 70 total work hours, members are not to exceed 16 hours of outside employment (pursuant to FMC §3-102). Additionally, members shall have at least one non-workday during each work week.

Flex Time – Members with flexible work schedules may adjust their city work schedule/hours to accommodate their outside employment with supervisor approval. All requests to flex schedule/hours must be submitted through OTTO.

Exception: Members may work more than the weekly 16-hour limit of outside employment under all of the following circumstances:

- (a) The outside employment benefits the Department;
- (b) The member has written commander approval to exceed the limit; and

- (c) The member takes an equal amount of time off (for those hours exceeding the 16-hour limit) from their Department duties using their accrued leave hours, excluding their accrued sick leave.

Discredit & Fatigue – Members are prohibited from accepting employment or engaging in any occupation or business which reflects discredit on the member or the Department, or which employment, occupation, or business causes criticism of the member or the Department, or where the activity affects the physical condition of the member in the performance of their regular duties by reason of fatigue or other detrimental condition. The number of hours worked per week shall not exceed the hours approved on the work permit.

Working While on Leave – Members are prohibited from engaging in any off-duty work [including Order Back, AWS, Contract Law Enforcement Services (CLES), etc.] or activity for which they are compensated or derive personal gain when they are:

- (a) On sick leave (including Special Sick);
- (b) On Family Sick/Family Care Leave pursuant to FMLA or CFRA
- (c) On injury leave or receiving temporary disability payments; or
- (d) On leave without pay for illness or injury.

Note: Members on Family Sick/Family Care Leave pursuant to FMLA, may not work extra duty assignments (i.e. Order Back, AWS, CLES, etc.). Exceptions to this rule require prior approval by the member's division commander.

Members on leave without pay may be permitted to engage in outside employment with the approval of the City Manager. Outside employment may not conflict with restrictions placed on the member, which prevent participation in regular duties. Members shall initiate any approval requests through the chain of command, beginning with their immediate supervisor.

1040.4 OBTAINING APPROVAL

Members may not engage in any outside employment without first obtaining prior written approval of the Chief of Police or designee. Failure to obtain prior written approval for outside employment or engaging in outside employment prohibited by this policy may lead to disciplinary action.

Probationary members and recruits shall generally not be issued work permits, nor shall they engage in any off-duty work during their probationary period. On a case-by-case basis, the Chief of Police or designee may approve work permits for probationary members and recruits if they do not interfere with the members duties or create a conflict of interest between the City of Fresno and the outside employer. This does not prohibit officers and recruits from performing their normal duties by working extra for the Department on an overtime basis.

Applications for work permits are available from the Personnel Bureau. Probationary members and recruits shall submit their work permit application and a memorandum through their chain of command to the Chief of Police or designee. The memorandum shall outline the reason(s) for the work permit.

Members must submit their work permit applications annually between June 1 and June 15 to the Personnel Bureau. Failure to submit the annual application during this period may result in an extended review and approval. First time applications can be turned in anytime but must be submitted before the member begins any outside employment, and also submitted again during the renewal period above. Completed applications shall be returned to the Personnel Bureau for approval and forwarding to the City Personnel Services Division. Work permits are not valid until all required signatures have been obtained.

If an employee terminates their outside employment during the period of a valid permit, the employee shall promptly submit written notification of such termination to the Chief of Police or designee through their chain of command. Any subsequent request for renewal or continued outside employment must thereafter be processed and approved through normal procedures set forth in this policy.

Any member seeking approval of outside employment, whose request has been denied, shall be provided with a written reason for the denial of the application at the time of the denial [Penal Code §70(e)(3)].

Note: These provisions do not apply to policing Special Events or Contract Law Enforcement Services (CLES).

Work permits may be rescinded if a conflict of interest develops, or the member is unable to perform their duties.

1040.4.1 APPEAL OF DENIAL OF OUTSIDE EMPLOYMENT

If an employee's Work Permit application is denied or withdrawn by the Department, the employee may file a written notice of appeal to the Chief of Police within ten days of the date of denial.

If the employee's appeal is denied, the employee may file a grievance pursuant to the procedure set forth in their current Memorandum of Understanding (MOU).

1040.4.2 REVOCATION/SUSPENSION OF OUTSIDE EMPLOYMENT PERMITS

Any work permit may be revoked or suspended under the following circumstances:

- (a) When an employee's performance at this Department declines to a point where it is evaluated by a supervisor as needing improvement to reach an overall level of competency, the Chief of Police or their designee may, at their discretion, revoke any previously approved work permit(s). That revocation will stand until the employee's performance has been reestablished at a satisfactory level and their supervisor recommends reinstatement of the work permit;
- (b) Suspension or revocation of a previously approved work permit may be included as a term or condition of sustained discipline;
- (c) If, at any time during the term of a valid work permit, an employee's conduct or outside employment conflicts with the provisions of Department policy, the permit may be suspended or revoked; or
- (d) When an employee is unable to perform at a full duty capacity due to an injury or other condition, any previously approved work permit may be rescinded until the employee has returned to a full duty status.

1040.5 PROHIBITED OUTSIDE EMPLOYMENT

Consistent with the provisions of Government Code §1126, the Department expressly reserves the right to deny any Work Permit application submitted by an employee seeking to engage in any activity which:

- (a) Involves the employee's use of Departmental time, facilities, equipment or supplies, the use of the Department badge, uniform, prestige or influence for private gain or advantage;
- (b) Involves the employee's receipt or acceptance of any money or other consideration from anyone other than this Department for the performance of an act which the employee, if not performing such act, would be required, or expected to render in the regular course or hours of employment or as a part of the employee's duties as a member of this Department;
- (c) Involves the performance of an act in other than the employee's capacity as a member of this Department that may later be subject directly or indirectly to the control, inspection, review, audit, or enforcement of any other employee of this Department; or
- (d) Involves time demands that would render performance of the employee's duties for this Department less efficient

1040.5.1 OUTSIDE SECURITY EMPLOYMENT

Consistent with the provisions of PC §70, and because it would further create a potential conflict of interest, no member of this Department may engage in any outside employment as a private security guard, private investigator or other similar private security position.

1040.5.2 OUTSIDE CANNABIS RELATED EMPLOYMENT

Consistent with the Federal Law (CSA), no employee shall be an owner, employee, investor, lender/silent partner, or independent contractor of a cannabis business. This includes providing a service/consultation to a cannabis business as it may still be viewed as committing a federal crime.

1040.6 CITY RESOURCES

Employees are prohibited from using any City equipment or resources in the course of or for the benefit of any outside employment.

1040.7 TERMINATION OF OUTSIDE EMPLOYMENT

If an employee terminates their outside employment during the period of a valid permit, the employee shall promptly submit written notification of such termination to the Chief of Police or their designee through their chain of command. Any subsequent request for renewal or continued outside employment must thereafter be processed and approved through normal procedures set forth in this policy.

1040.8 CONTRACT LAW ENFORCEMENT SERVICES

Pursuant to FMC §§3-122(b) and (c), citizens may request uniformed police services for law enforcement, traffic safety, or crowd control purposes.

Staff Officers and sergeants shall not work in place of an officer for purposes of delivering contract law enforcement services. Ride-a-longs are prohibited.

1040.8.1 NOTIFICATION OF AVAILABLE CLES DETAILS

An e-mail listing the available CLES details will be sent out at approximately 1230 hours on Thursdays, eleven days prior to the week of available CLES details. Members wishing to be advised of available CLES details shall provide the CLES Coordinator with their Department e-mail address by e-mailing Police.ContractServices@fresno.gov. Department e-mail will be the ONLY means by which a member can request, accept, or cancel CLES details.

For notification purposes only, members may provide one personal e-mail address to the coordinator by e-mailing the Coordinator with this request from their personal e-mail account.

1040.8.2 MEMBER REQUEST FOR CLES DETAIL(S)

Members interested in a detail must respond by 2359 hours on the Sunday following the notification, unless otherwise directed in the notification email. In order for the member's request(s) to be accepted, it must be sent from the member's Department e-mail account.

Any member on administrative leave, serving a suspension day(s), or injury-related leave, (including any type of modified duty status), is prohibited from submitting requests for, accepting, or working contract service assignments.

1040.8.3 ASSIGNMENT & ACCEPTANCE OF CLES DETAILS

Members who have been assigned a CLES detail will receive notification of their assignment(s) on Tuesday, by 2200 hours, the week prior to the CLES detail(s). Notifications of assigned CLES details will be e-mailed to the member's Department e-mail address, along with a 'Read Receipt Request'.

When opening the notification e-mail, the member will be prompted with the "Read Receipt" and they must click on the "Yes" box. Only receipts from the member's Department e-mail address will be accepted. The member's response to this receipt will serve as acceptance of the CLES detail(s). A member will have until 1230 hours on the Thursday prior to the week of the CLES detail to accept the detail. Failure to respond to the receipt request will result in the CLES detail being assigned to someone else.

1040.8.4 OFFICER RESPONSIBILITIES

Officers performing supplemental law enforcement services during contracted assignments are responsible for enforcement of laws and not enforcement of rules established solely by the employer unless specifically authorized by the Chief of Police or their designee (e.g., The Big Fresno Fair, etc.). Prohibited activities may include:

- (a) Permitting unauthorized entrance to any person(s);
- (b) Taking tickets; and
- (c) Ejecting patrons only on the employer's request (absent a criminal violation).

Absent the aforementioned authorization, members shall not perform any duties outside of enforcing the law or providing those services that are normally performed by on-duty officers. The same regulations and procedures that apply to officers working patrol assignments shall apply to contractual work arrangements.

Officers working a contract assignment shall first contact the on-duty supervisor in the district that they are working (or the contract supervisor when one is assigned).

- (a) The officer will be briefed about any activity occurring or anticipated at the contract assignment.
- (b) Officers then shall respond directly to the location of the assignment at the designated time unless otherwise directed.
- (c) Officers are responsible for notifying the contractor when beginning and ending their shift.
- (d) At the specified start time of the assignment, officers shall log on the radio channel controlling the policing district in which the officer is working with the radio designator assigned by the CLES Coordinator.

Exception: When an officer is assigned to pick up a patrol vehicle they shall respond to the district where the contract assignment is occurring, check out the vehicle, log on to the controlling radio channel at the designated time and report to the worksite as soon thereafter as possible. The officer may add an additional half hour of time to the total time worked as travel time for picking up/dropping off the vehicle. Officers assigned to utilize a patrol vehicle as part of their assignment shall first utilize high mileage vehicles if available. If one is not available, then other patrol vehicles without MDS or a hard mount radio should be utilized. If none of these vehicles are available, then officers may utilize a fully equipped patrol vehicle.

Members who must leave their assignment shall notify the contractor and Department supervisor as soon as possible and inform them of the expected duration and reason for the absence.

When a member leaves their assignment as the result of injury, illness, court, or an emergency situation occurring in the officer's presence (occurring off the contractor's premises), the officer shall call the Duty Office and provide the reason/length of absence.

Officers should not volunteer to handle calls for service unless they occur on the contractor's premises or the call is an emergency and it is occurring in the immediate area. When transportation of arrestees is required a wagon or patrol unit shall be utilized.

1040.8.5 STAFF OFFICERS

At the direction of the Chief of Police, staff officers including lieutenants, captains, and deputy chiefs may be assigned to CLES events. CLES shall be limited to one staff officer per event, with limited exceptions determined by the Chief of Police or their designee. The assigned staff officer shall have overall command of the event. Compensation for the CLES event will be in accordance with the applicable MOU.

1040.8.6 DISTRICT COMMANDER RESPONSIBILITIES

District commanders shall:

- (a) Determine whether or not an applicant will be allowed to contract with the Department for supplemental law enforcement services under Approval Guidelines listed below;
- (b) When an applicant requests vehicles, determine whether or not vehicles will be available and

authorized;

- (c) Determine whether staffing in excess of that which has been requested will be required;
- (d) Notify the CLES Coordinator of applications that have been denied or require modification;
- (e) Return the application to the CLES Coordinator; and
- (f) Arrange for a designee to complete the tasks described in this section in the event of their absence.

1040.8.7 APPROVAL GUIDELINES

Generally, contracted law enforcement services may be approved when the location/event:

- (a) Generates an above average number of calls for service;
- (b) Is in a high crime area;
- (c) Is frequented by known drug dealers or gang members; or
- (d) Has received approval by the Chief of Police, or designee.

Contracted law enforcement services may also be approved when, in the district commander's judgment, the Department and/or the community would benefit from the delivery of supplemental law enforcement services.

All CLES events shall require at least one marked patrol vehicle. Additional patrol vehicles will be required when more than two officers are assigned, at the rate of one patrol vehicle for every two officers.

Additional guidelines for types of non-approved events, etc., are contained within the Application for Contract Law Enforcement Services.

1040.9 SPECIAL EVENT POLICING

1040.9.1 NOTIFICATION OF AVAILABLE SPECIAL EVENT DETAILS

An e-mail announcing upcoming Special Event details will be sent out by the Special Events Coordinator at least three weeks prior to the special event. The announcement will list the available details, applicable deadlines to submit shift preference sheets, and any other pertinent information.

1040.9.2 MEMBER REQUEST FOR SPECIAL EVENT DETAIL(S)

Members interested in a detail must respond by 2359 hours on the application deadline date listed in the notification. In order for the member's request(s) to be accepted, it must be sent from the member's Department e-mail account.

1040.9.3 ASSIGNMENT & ACCEPTANCE OF SPECIAL EVENT DETAILS

Members who have been assigned a Special Event detail will receive notification of their assignment(s) at least one week prior to the Special Event detail(s). Notifications of assigned Special Event details will be e-mailed to the member's Department e-mail address, along with a 'Read Receipt Request'. When opening the notification e-mail, the member will be prompted with the "Read Receipt" and they must click on the "Yes" box. Only receipts from the member's Department e-mail address will be accepted. The member's response to this receipt will serve as acceptance of the Special Event detail(s). A member will have until the deadline listed on the email to accept the detail. Failure to respond to the receipt request will result in the Special Event detail being assigned to someone else.

Members may not swap their Special Event detail assignments.

1040.10 GENERAL GUIDELINES FOR CLES AND SPECIAL EVENTS POLICING

For the purposes of this section, the term contracted events/assignments includes CLES as well as special events policing (e.g., The Big Fresno Fair, Hmong New Year, etc.).

Officers shall work contracted events in their Class B uniforms and shall have related equipment available (i.e., report forms, baton, flashlight, etc.). Specialized items, such as shotguns, canines, etc., are specifically prohibited.

1040.10.1 CANCELLATIONS

When an officer is unable to work, or complete their contract assignment due to injury, illness, court appearance or other unavoidable event they shall immediately call the Duty Office or Special Events Coordinator as appropriate.

- (a) For cancellations, an e-mail notice must be sent by the member to the CLES Coordinator or Special Events Coordinator, and the Duty Office, a minimum of 24 hours prior to the start of the assigned CLES detail/special event.
- (b) Members cancelling with less than 24 hours notice to the CLES Coordinator/Special Events Coordinator are subject to provisions of the MOU regarding removal from the assignment list.
- (c) Once a contract or special event is accepted, members are prohibited from cancelling and then accepting another contract, AWS, or overtime shift.
- (d) When a member is ill and cannot fulfill the contract, the Duty Office must be notified a minimum of 1.5 hours prior to the start of the CLES detail/special event, per Department policy.
- (e) When the Coordinator cannot be contacted the officer shall immediately notify the Duty Office and the duty officer will attempt to locate a volunteer to complete the contract.
- (f) The duty officer shall promptly notify the contractor when a replacement officer cannot be located.

1040.10.2 COMPLAINTS

When a complaint arises regarding an officer's conduct it shall be referred to the supervisor on-duty in the policing district where the contract service is being performed. When the complaint is not resolved and is not assigned to the Internal Affairs Bureau, the decision as to the assignment of the complaint will be made by the Patrol Commander. Concerns relating to the terms or execution of the contract that are not of an immediate nature shall be referred to the CLES Coordinator or Special Events Coordinator as appropriate.

1040.10.3 REPORTS

Reports, which were the result of an incident occurring on the contractor's premises, shall be written by the contract officer. When activities such as report writing result in contract officer time in excess of that which was contracted, the contract officer shall notify the CLES Coordinator or Special Events Coordinator as appropriate by voicemail with the reason for and length of time involved with the activity.

1040.10.4 SUPERVISOR RESPONSIBILITIES

Supervisors assigned in the district where a contract event is occurring shall be responsible for supervising the contract officers including any associated administrative duties.

- (a) The contract officers shall be contacted at least once during their shift.
- (b) Supervisors will ensure that contract officers are not dispatched on calls or otherwise leave the assignment unless the call is occurring on the contractor's premises or the call is an emergency and it is occurring in the immediate area.

Exception: When sergeants are working in a contract capacity, they shall be responsible for any administrative duties associated with the contracted event (i.e., the investigation of complaints against contract officers including officers who fail to appear as assigned).

1040.10.5 APPLYING FOR PAY

When a contracted assignment is completed, the officer(s) who worked the assignment shall complete an OTTO request and mark the designated special project box (e.g., 'S4' for Contract Services).

- (a) The OTTO request will automatically be routed to the CLES Coordinator or Special Events Coordinator as appropriate for review, approval, and submission to the Fiscal Affairs Bureau.
- (b) Officers shall receive overtime compensation at the hourly rate agreed to in the MOU.

Court time which results from contracted law enforcement services shall not be charged to the contractor.

FPD OUTSIDE EMPLOYMENT CALENDAR

Supervisor:				Received Date:									
Name:			Assignment:		Watch:								
MONTH/ YEAR:			Outside Employer:										
<u>INSTRUCTIONS:</u> **THIS FORM MUST BE COMPLETED TO DOCUMENT ALL HOURS OF OUTSIDE EMPLOYMENT** **Form MUST be submitted to your immediate supervisor by the 5th of the month following any hours worked. Used a separate form for each employer/ job. Members may work more than the weekly 16 hour limit of outside employment under all of the following circumstances: (a) The outside employment benefits the Department; (b) The member has written commander approval to exceed the limit; and (c) The member takes an equal amount of time off (for those hours exceeding the 16 hour limit) from their Department duties using their accrued leave hours, excluding Their accrued sick leave. ****NOTE THAT ALL WEEKS START ON MONDAY AND END ON SUNDAY****													
Please list the start and end time of outside employment. Also list any timeoff and/or flex requests completed though OTTO.													
MONDAY		TUESDAY		WEDNESDAY		THURSDAY		FRIDAY		SATURDAY		SUNDAY	

Supervisors Approval _____ Date _____

Revised: 6/1/121

1042.1 POLICY

All work-related injuries and illnesses must be reported to the member's supervisor immediately, but no later than 24 hours of its occurrence if the member cannot reasonably provide immediate notice of the injury/illness. A claim form shall be provided to the injured/ill member within one business day from the time the injury/illness was reported or discovered by the member's supervisor. This policy covers only matters regarding work-related injuries/illnesses, with the exception of Section 1042.10 and 1042.10.1 Temporary Light Duty Assignments which applies to both work-related and non-work-related injuries/illnesses.

1042.1.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure proper medical attention is received for work related injuries, illnesses, or deaths, along with prompt documentation describing circumstances of the incident.

Documentation shall be completed to ensure compliance with Workers' Compensation Fund and Risk Management requirements.

1042.2 DEFINITIONS

Long Term Absence (LTA) - Refers to any member who is incapacitated and unable to perform their regular job duties and are unable to work in any capacity for longer than one week, a work-related injury/illness, or the Department's inability to reasonably accommodate their temporary medical limitations and/or restrictions.

Temporary Total Disability (TTD)- Applies to a member whose work-related injury/illness temporarily keeps them from doing any type of work, including modified light duty or alternative work. Members on TTD are expected to recover and be able to return to their job doing all essential job duties they had before their injury/illness, with or without reasonable accommodation(s).

Light or Modified Duty – Refers to any member with a temporary adjusted work assignment in order to accommodate the members physical limitations while recovering from a work-related injury/illness.

Workers Compensation Coordinator (WC Coordinator)- The Fresno Police Department WC Coordinator acts as the central point of communication and case management for members who have work-related injuries/illnesses and the Department. They also act as the Department's point of contact with other stakeholders, including the City's Third-Party Administrator, medical providers, City Attorney's Office, Risk Management, and others regarding Department worker's compensation matters.

1042.3 LONG TERM ABSENCE MEMBER (LTA MEMBER)

When an employee is on Long Term Absence (LTA) due to a work-related injury/illness, the WC Coordinator is responsible for tracking the member's recovery progress to ensure appointments and necessary documents are completed in a timely manner. The WC Coordinator will retain such responsibilities until the employee returns to their prior duty, with or without reasonable accommodations, or it is determined by a medical professional that the employee is permanently unable to return to work performing all of their essential job duties, with or without reasonable accommodation(s).

When a member is on LTA and is placed on injury pay or medical absence the member will be carried on that disability status and respective pay until that member is released to perform all of their essential job duties, with or without reasonable accommodation, or placed in a temporary light duty assignment.

1042.4 MEMBER'S RESPONSIBILITY

When an injury/illness is incurred related to the member's job, the member shall notify their supervisor immediately, but in any event no later than 24 hours of its occurrence if the member cannot reasonably provide immediate notice of the injury/illness. All members shall comply with the following instructions for work-related injuries/illnesses, whether they are on-duty or off-duty.

1042.4.1 INITIAL NOTIFICATION

Immediately upon learning that they meet or reasonably anticipate meeting the criteria of LTA, members shall notify their immediate supervisor, the Duty Office (if assigned to the patrol matrix), and, the WC Coordinator to provide the following information:

- (a) Their name and a phone number where they can be contacted;
- (b) When the injury/illness occurred;
- (c) The anticipated length of disability;
- (d) The date available for temporary light duty assignment;
- (e) The treating medical provider's name and telephone number;
- (f) The current medical limitations and/or restrictions;
- (g) Their next appointment with their treating medical provider's; and
- (h) Copies of all Medical Status Report Forms.

Any member sustaining a work-related injury/illness that requires relief from duty is required to be examined / treated by a medical provider from the Workers' Compensation Alternative Dispute Prevention and Resolution Program (ADR) list of providers. Non-sworn members may pre-designate a medical provider or select from the Medical Provider Network. The ADR list may be obtained from the WC Coordinator or the Duty Office.

Hospital emergency rooms should be used only in cases of extreme emergency or when other service providers are unavailable (e.g., after normal business hours for those on the ADR list).

1042.4.2 WORK STATUS UPDATE

Injured/ill members shall provide an updated status report to the WC Coordinator on their work restrictions and/or limitations and work status (i.e. release date) after each medical appointment, no later than 5 p.m. on the date of their medical appointment. The work status reporting requirement applies to members on temporary light duty assignments, as well as members on TTD. All required Work Status Reports shall be provided to the WC Coordinator. This update should be provided in person to the WC Coordinator or the Duty Office. In an extenuating circumstance the notification may be made via email, text, or fax.

1042.4.3 MEDICAL APPOINTMENTS FOR WORK-RELATED INJURIES/ILLNESSES

Members are responsible for scheduling and keeping all workers' compensation medical appointments and cooperating with their established medical treatment plan. Members shall make every attempt to seek prompt treatment for their injury/illness in order to facilitate their full return to work.

Members are required to appear for medical examinations, treatments and procedures as scheduled.

When a member cannot attend a scheduled workers' compensation appointment or wishes to reschedule an appointment, they shall first contact the WC Coordinator and explain the need to reschedule. After obtaining approval from the WC Coordinator, the member will reschedule the appointment with the medical provider, then shall report back to the WC Coordinator the new date and time for the appointment. Failure to properly communicate with the Department and/or to appear at scheduled medical appointments may result in the denial of workers' compensation benefits.

Members shall provide a medical providers' note, or verification of the visit, to the WC Coordinator for every medical appointment for a work-related injury/illness. The note must specify which injury/illness claim the appointment was for to ensure the member is properly compensated for the absence.

For members on TTD leave or assigned to a temporary light duty assignment , medical appointments should be scheduled during regular or modified duty hours, whenever possible.

For members released to full duty, with or without reasonable accommodations, but still attending worker's compensation medical appointments, reasonable efforts should be made to schedule those appointments outside of normal working hours or on days off.

If a member assigned to a temporary light duty assignment or released to full duty, with or without reasonable accommodations, attends a workers' compensation medical appointment while on duty, an OTTO entry shall be submitted for On-the-Job (OJI) Injury Pay (i.e., workers' compensation benefits pay)

1042.4.4 WORK STATUS REPORT FORM

The supervisor contacted by the member shall provide the injured/ill member with a Work Status Report Form. The member shall have these forms completed by the attending medical provider at the time initial medical treatment is provided for any work-related injury/illness. The completed form, along with any other necessary paperwork, shall be forwarded to the WC Coordinator as soon as practical.

Members shall take blank copies of the Work Status Report Form to each subsequent appointment with their treating medical provider. The form or other approved report form shall be completed by the medical provider, or designee, and returned via FAX/email to the WC Coordinator by 5:00 p.m. on the date of their medical appointment. Failure by the member to provide copies of the Work Status Report Form after each appointment with their treating medical provider may impact the member's worker's compensation claim benefits.

1042.4.5 ACTIVITY RESTRICTIONS

LTA and TTD members, and members on temporary light duty assignments, shall not become involved in activities that would conflict with their injury/illness medical restrictions and/or limitations or interfere with their medical treatment. For sworn members, these same restrictions apply absent a life- threatening emergency that requires an immediate response and the use of peace officer powers only if they meet their qualifications under Policy 312.7, Firearms Qualifications.

LTA and TTD members, and members on temporary light duty assignments are prohibited from working outside employment including self-employment, in violation of Fresno Municipal Code Section 3-102(b). Any approved work permits are automatically suspended until the member is no longer receiving workers' compensation benefits, unless: (1) written approval is provided to the WC Coordinator from the member's treating medical provider that the outside work to be performed does not interfere with the progress of the member's treatment and is consistent with the medical limitations and restrictions imposed by the provider, and (2) no light duty work is available in the City. LTA and TTD members shall not participate in any activities that require them to be in uniform.

Members with work-related injuries/illnesses that are not working full duty for longer than one work week or where temporary light-duty restrictions cannot be accommodated, shall be assigned to a temporary modified work schedule, Monday through Friday, 9 am to 5 pm. Members shall remain at their residential address of record in Peoplesoft during the designated temporary modified work schedule hours and be personally available to respond to any official telephonic and/or personal contact by the Department, except when engaging in workers' compensation activities, such as medical appointments, treatments, prescribed activities, or with approved time off as in Section 1042.4.6.

Members assigned to attend (or who request to) attend training while on LTA or TTD shall seek approval from their commander prior to attending. LTA and TTD members shall not participate in any training activities outside of their work restrictions and/or limitations.

1042.4.6 OTTO TIME TRACKING

Members placed on LTA or TTD and members on temporary light duty assignments must submit OTTO requests for time off, including Vacation Leave, Holiday Leave, and CTO. The WC Coordinator will serve as the temporary supervisor/manager for members placed on LTA/TTD for OTTO tracking purposes. All requests for time off must be sent to the WC Coordinator for preapproval. Time away from the member's residence for scheduled workers' compensation medical appointments, treatments, prescribed activities, do not require an OTTO entry. However, unscheduled absences during the member's temporary modified work schedule from the member's residence of more than 2 hours require preapproval from the WC Coordinator. If the WC Coordinator is unavailable, the member may contact the Duty Office to report the absence

Members on temporary light duty will be assigned to a temporary work location within the Department consistent with their limitations and/or restrictions. The shift and work schedule will be determined based on the work location assigned. The supervisor of their temporary assignment workplace will serve as the member's immediate supervisor / manager for OTTO tracking purposes. All requests for time off must be sent to the member's temporary supervisor/manager, except worker's compensation for OJI- related medical appointments, which are sent to the WC Coordinator and listed as OJI Pay.

Members released to full duty with or without restrictions, who are required to attend ongoing compensation medical appointments during working hours are required to submit an OTTO entry for OJI Pay, which is forwarded to the WC Coordinator for approval.

The member shall provide a copy of medical documentation to the WC Coordinator upon returning to work after a medical appointment. The note must specify which injury/illness claim the appointment was for in order for the member to be properly compensated for the absence.

1042.5 SUPERVISOR'S RESPONSIBILITY

1042.5.1 AUTHORIZATION FOR MEDICAL CARE

Supervisors shall complete an Authorization for Medical Care form before a member seeks medical attention, when possible. Supervisors shall refer members to medical facilities within the Medical Provider Network (MPN), on the workers' compensation list of "first treatment sites", unless the non- sworn member has pre-designated their personal physician, in writing, prior to the current injury. Sworn members shall be referred to one of the ADR providers.

1042.5.2 SUPERVISOR'S REPORT OF INJURY (SRI) FORM

The supervisor shall complete the Supervisor's Report of Injury Form (SRI) when any injury / illness arising out of a member's employment is reported. The SRI shall contain the case number (when applicable) and a detailed account of exactly how the injury occurred. Even when self-administered first aid is the only treatment required, an SRI must still be completed. The form shall be completed before the end of the shift during which the injury/illness is reported.

1042.5.3 EMPLOYEE'S CLAIM FOR WORKERS' COMPENSATION BENEFITS FORM

Every injured/ill member must be provided with an Employee's Claim for Workers' Compensation Benefits Form (DWC1) within 24 hours the injury/illness was reported or discovered by the member's supervisor, in the event the member will be missing work or seeking medical attention.

The supervisor shall complete the 'Employer' section. The injured member, and not the supervisor, shall complete the 'Employee' section when the member will be missing work or seeking medical attention. A copy of the DWC1 form shall then be given to the member as their claim receipt.

Members shall also complete the "Workers' Compensation-Employee Obligations Notice" at the time the DWC1 form is completed. The original shall remain in the member's medical claim file in the WC Coordinator's office and a copy shall be provided to the member.

Note: If a member is unable to complete the DWC1 form at the time of the injury/illness, the supervisor shall make a copy of the partially completed form to send in with the SRI and give the claim form to the member. The member shall complete the DWC1 claim form as soon as possible and return it to the WC Coordinator's office

1042.5.4 DISTRIBUTION OF FORMS

The SRI and DWC1 shall be faxed (or emailed) to the WC Coordinator (457-1123) prior to forwarding the originals. The original SRI and original DWC1 shall be forwarded to the WC Coordinator's office **within** one business day of the reported injury/illness.

When a member returns the DWC1 to their supervisor, the DWC1 shall be faxed (or emailed) to the WC Coordinator (457-1123). The original and remaining copies shall be forwarded to the WC Coordinator's office within 24 hours of its return by the injured member.

1042.6 BUREAU / DISTRICT / SECTION COMMANDER / MANAGER RESPONSIBILITY

It is the responsibility of the LTA member's regular Bureau / District / Section Commander / Manager (or designee) to maintain weekly contact with said member and to determine any changes or updates to their status. Any changes / updates to the member's status shall be brought to the attention of the WC Coordinator.

The Bureau / District Commander/Manager, as soon as it is medically permissible, shall personally contact the member to inquire whether or not any assistance may be rendered.

When a member is determined to be LTA or has been assigned to temporary light duty their Commander / Manager shall ensure the member has signed the "Employees Obligation Notice", and understands the information and instructions in the memo.

The Commander / Manager shall designate a representative who shall be the Bureau / District contact person for members on temporary disability due to industrial injury/illness. In cases where there is traumatic injury or illness, hospitalization, or family members in need of assistance due to incapacitation of a Department member, the Bureau / District designee may contact the appropriate personnel for assistance. LTA members shall be contacted on a regular basis, at least once per week, to determine the status of the injured / ill member and document the anticipated return to work time. The contacts may be made telephonically or, when appropriate, in person. A record of this contact, either memo or e-mail, shall be forwarded to the Commander / Manager and the WC Coordinator.

Commanders / Managers should remain aware of positions under their command that could be filled with temporary modified light duty personnel. The availability of these positions should be communicated to the WC Coordinator for consideration when light duty personnel become available.

1042.6.1 CONTACT FOR NON-WORK RELATED INJURIES/ILLNESSES

When a member is LTA while recovering from a non-work related injury/illness (i.e., off-duty injury/illness), the Commander / Manager shall maintain weekly contact with the member throughout the recovery process. Whenever issues or concerns are brought to the attention of the Commander / Manager by an injured member or member's family, available resources should be considered to remedy the situation.

1042.7 WC COORDINATOR RESPONSIBILITY

Once it has been determined by a medical professional that a member is permanently unable to return to perform their essential duties with or without reasonable accommodation, the member will be removed from any assigned temporary light duty assignment and will be placed on injury pay (for accepted workers' compensation claims, provided leave time is still available) or use personal time accruals for other absences that are not accepted workers' compensation claims in accordance with the applicable MOU and salary resolution. The Department will initiate the interactive process with Risk Management. Risk will schedule an interactive process meeting with the member, which includes a discussion regarding potential alternate work in another job position/classification. In the event the

member does not accept another job position/classification within the City as a reasonable accommodation, the interactive process will conclude and Risk will notify the WC Coordinator's office.

The WC Coordinator's office will prepare a letter to the member stating temporary light duty assignments will no longer be available. The member's commander will also be notified. The injured member will remain on appropriate leave time pending separation from the Department.

Depending on time vested and retirement eligibility, the options available to the member are: pursuing alternative work with the City, subject to minimum qualifications and ability to perform all essential job duties with or without accommodation(s) filing for service connected disability retirement, filing for service retirement, resigning or medical separation (termination). Members may file for both a service and service-connected disability retirement, with the understanding that separation from the Department has occurred, while the disability retirement process is completed.

1042.7.1 ROLE OF THE WC/LTA COORDINATOR

The WC Coordinator acts as the central point of communication and case management for injured members and the Department and acts as the Department's point of contact with other stakeholders, including the City's Third-Party Administrator, medical providers, City Attorney's Office, Risk Management, and others.

Responsibilities of the WC Coordinator include (but are not limited to):

- (a) Receiving the initial notification of an injured member;
- (b) Ensuring contact and progress updates with injured members (only those on the Patrol Unassigned list);
- (c) Maintaining and distributing a weekly status report of all injured members;
- (d) Liaison between the Department and the Third Party Administrator's primary case manager;
- (e) Liaison with medical providers (physicians, licensed mental health clinician, chiropractors, radiologists, etc.);
- (f) Coordinate with the Patrol Administrative Bureau Commander for temporary modified duty (light duty) assignments; and
- (g) Supervisor / Manager for temporarily disabled members.

1042.8 DIVISION COMMANDER RESPONSIBILITY

Long Term Absence personnel may be assigned other light duty assignments to meet the needs of the Department. Division Commanders seeking a change to a light duty assignment will contact the Chief of Police for concurrence with the proposed change. Following this decision, the Division Commander will advise the Patrol Administrative Bureau Commander of the change. The Patrol Administrative Bureau Commander will notify the affected personnel of the change in assignment within 24 hours to allow for changes to the detail and/or work schedule.

1042.9 FISCAL AFFAIRS RESPONSIBILITY

Members who are absent from work due to a work-related injury shall be placed on injury pay in accordance with the provisions of Fresno Municipal Code §3-118, Administrative Order §2-22 and Labor Code 4850.

1042.10 TEMPORARY LIGHT DUTY ASSIGNMENTS-ALL INJURIES/ILLNESSES

The Department may offer temporary light duty assignments to members who are unable to perform their usual and customary duties. Temporary light duty assignments will be made based on the needs of the Department and all temporary light duty assignments will be made by the Patrol Administrative Bureau Commander, or as otherwise directed by the Chief of Police.

Members being treated for a work-related injury/illness shall inform the attending medical provider that a temporary modified duty assignment is available at the Department.

Members incapacitated, but who are expected to return to their regular duties in less than one week, may be allowed to remain in their Division. Upon learning their absence from regular duties will

continue beyond one week, members shall immediately notify the Duty Office (if assigned to the patrol matrix), and the WC Coordinator to be placed on a temporary modified work schedule, Monday through Friday, 8 a.m. to 5 p.m.

Members who are eligible for temporary light duty and have been released by their medical provider to perform modified duties, shall immediately contact the Patrol Administrative Bureau Commander for assignment.

- (a) Prior to commencing their assignment, members shall provide their Medical Status Report and any medical provider notes to the WC Coordinator.
- (b) Members will report to their assignment in training attire unless arrangements have been made with their assigned supervisor to accommodate medical disabilities.
- (c) Any members who learn they are to be released to full duty shall immediately notify the Duty Office (if assigned to the patrol matrix) and the WC Coordinator. The member shall also forward written verification of the release to the Duty Office and the WC Coordinator.
- (d) Members will not be allowed to resume duty until a completed Medical Status Report, or medical provider release, is received.
- (e) The completed form / release may be faxed, emailed or sent via text to the Duty Office / LTA Coordinator.
- (f) Sworn members' range training / qualification status must be current prior to resuming their regularly assigned duties.

The Department may be limited in the number of temporary light duty assignments available due to department needs. All temporary modified duty assignments will be made by the Patrol Division Administrative Commander, or as otherwise directed by the Chief of Police

Members assigned to a light duty assignment may be assigned to work a five-day, eight-hour schedule, with work hours and days off based on the needs of the Department. Exceptions involving temporary light duty assignments and/or work schedules shall be at the direction of the Patrol Division Administrative Commander, or as otherwise directed by the Chief of Police.

Once assigned to a temporary light duty assignment, the members shall ensure OTTO accurately reflects their temporary supervisor / manager when submitting for any time off, except injury/illness leave, which is to be submitted to the WC Coordinator for approval. Members shall ensure medical appointments, including physical therapy and workers' compensation appointments during work hours, are accounted for in OTTO. Injured/ill members will provide medical documentation to their temporary supervisor / manager and the LTA Coordinator for verification in OTTO.

When a member assigned to temporary light duty becomes unable to work in this capacity per medical provider's order, the WC Coordinator and the member's temporary immediate supervisor shall be notified. The member shall ensure OTTO accurately reflects their regular supervisor / manager before being placed on injury/illness leave.

1042.10.1 DURATION OF ASSIGNMENT

Light duty assignments will be reviewed when there is a change in the member's medical status, or when the temporary light duty assignment is no longer available due to business reasons, or, after 30-days from LTA assignment, and again once (6) months have passed in any case. The review to determine will determine whether the member is likely to return to full-duty, (with or without reasonable accommodation(s)), or if another course of action should be considered (i.e., Interactive Process to discuss further reasonable accommodations, fitness for duty examination (**Fresno Municipal Section 3-288**)).

1042.11 INJURY NOT REQUIRING MEDICAL ATTENTION

Those injuries not requiring medical attention shall be recorded on an SRI form. This form shall be completed, signed by a supervisor, and forwarded to the WC Coordinator at the end of the shift.

This form shall be signed by the affected member, indicating that they desire no medical attention at the time of the report. By signing this form, the member will not preclude their ability to seek medical attention later.

1042.12 ADMISSION TO HOSPITAL

When a member is admitted to a hospital due to a work related injury/illness, a District, Operations or Field Commander will determine whether to request a "normal" admission or a "security" admission. Notification to the WC Coordinator is required.

1042.12.1 NORMAL ADMISSION

A normal admission shall be requested when there is no necessity for security associated with the member's stay at the hospital. Normal hospital procedures shall apply to the member. The Department will not request any special conditions regarding access to the member.

1042.12.2 SECURITY ADMISSION

The Chief of Police, or designee, shall determine the necessity for a police guard. When a police guard is necessary, the injured member's supervisor shall ensure a police guard is provided. The guard shall be placed at a location that will prevent unauthorized access to the member's room. Only those persons who have a valid reason to see the injured member will be allowed entry.

1042.13 IN LINE OF DUTY DEATH

When the death of a member is believed to be in the line of duty, the Employee Services Coordinator will be a liaison between the member's family and the Department. The Coordinator will guide the member's family through the process of filing for Federal, Workers Compensation, retirement, and other available benefits.

1044 Uniform Regulations

1044.1 POLICY

Members of this Department shall maintain their personal hygiene and appearance to project a professional image appropriate for this Department and for their assignment.

1044.1.1 PURPOSE AND SCOPE

Unless otherwise stated, the following appearance standards shall apply to all members, except those whose current assignment would deem them not appropriate, and where the Chief of Police has granted exception.

1044.2 GROOMING STANDARDS

Members shall present a neat, professional, and businesslike appearance whether in uniform or plainclothes.

Civilian members shall conform to the same standards as sworn members except those provisions regarding hair length do not apply.

Members assigned to a special unit or detail, while in an undercover capacity may, with their commander's permission, be exempted from this policy section on a case-by-case basis for the duration of the undercover assignment.

1044.2.1 HAIR

Hairstyles of all members shall be neatly trimmed, neat in appearance, and styled in a professional manner. Hair may be worn in keeping with contemporary styles, but not in an extreme or unsightly fashion, (e.g., mohawks, mullets, or writing/designs cut into hair, etc.). Hair dyed unnatural colors (e.g., blue, pink, green, etc.) is also prohibited. When in uniform or working in a patrol capacity, hair shall not be so long as to interfere with the wearing of the helmet or cap. Hair that exceeds shoulder length shall be worn up in a tightly wrapped bun, braid, or ponytail.

1044.2.2 MUSTACHES

Facial hair shall be restricted to the wearing of a mustache. Mustaches shall be neatly trimmed. Mustaches shall not protrude below the upper lip at any given point along the upper lip. The ends of the mustache shall not extend past the bottom of the lower lip.

Exception: Handlebar mustaches shall be permitted if the ends of the mustache are kept above the level of the lower lip. Handlebar mustaches shall be moderate in length. No extreme styles or variations are allowed.

1044.2.3 SIDEBURNS

Sideburns shall not extend below the bottom of the outer ear opening (the top of the earlobes) and shall be trimmed and neat.

1044.2.4 BEARD/GOATEE

Beards and goatees are permitted but must have a natural human hair color and be well maintained to present a professional appearance. Beard and goatee facial hair shall not exceed one quarter inch (1/4") in length, must be accompanied by a mustache, and is contiguous with no designs shaved into it. A beard must be connected with the sideburns. The neck and area above the cheek bones must remain cleanly shaven and the perimeter lines of the beard and goatee must be neatly trimmed and defined. Beards and goatees shall not extend beyond the top of the Adam's apple.

If a member intends to grow facial hair, they must initiate growing the facial hair during a period of at least two consecutive days off to not give the appearance of failing to shave.

The wearing and appropriateness of facial hair as defined by this policy shall remain at the sole discretion of the Chief of Police or designee.

1044.2.5 UNIFORMS

Uniforms shall be neat, clean, and in good repair. Uniforms shall not be faded. Members are personally responsible for maintaining their uniforms in this condition. "Leather" items shall be polished regularly and shall not appear scuffed or dull in finish. (Refer to Policy §1046).

1044.2.6 JEWELRY AND ACCESSORIES

Jewelry may be worn by members. It will not be gaudy, extreme, or excessive, and be in good taste. No more than one ring may be worn on each hand. Jewelry shall not be attached to the uniform. While in uniform, earrings will be limited to a single stud pierced earring worn in each lobe of a female's ear. Male members shall not wear earrings.

Appeals Process

Members wishing to wear jewelry that may conflict with this order shall request an appeal, through their immediate supervisor, to the Tattoo Review Committee according to 1044.3.

1044.2.7 BODY PIERCING

No body piercing shall be visible while any employee is on duty or officially representing the Department, except as provided for in §1044.2.6 above.

1044.2.8 BODY IMPLANTS, DERMAL PUNCHING, DENTAL ORNAMENTATION, BODY ART, and SCARIFICATION

Members shall not display any visible intentional scarring, mutilation, brandings, dermal punching, body implants or dental ornamentation while on duty or officially representing the Department. All items in this section shall be completely covered by wearing an approved uniform, appropriate non-uniform clothing, a plain neutral skin patch or plain neutral skin bandage (e.g., ace bandage or Band-Aid type bandage) while maintaining a professional appearance.

- (a) Body implants are generally objects inserted beneath the skin of the hands, arms, head, face, neck, upper chest, or ears resulting in a visible protrusion of the skin outlining the object for other than reconstructive purposes.
- (b) Dermal punching is the removal of tissue for the insertion of jewelry or other objects, or for the creation of visible holes larger than a standard piercing.
- (c) Dental ornamentation includes the affixing to the teeth of gold, platinum, or other veneers or caps used for decorative purposes. Dental ornamentation does not include braces for orthodontic reasons, veneers, or other fillings/methods used to repair a cavity or damaged teeth.
- (d) Body art includes any markings added intentionally and that are visible such as temporary henna ink markings, Indian ink markings, or other similarly applied markings that may resemble a tattoo.
- (e) Scarification means any intentional scarring that is similar to tattoos in that the scarring shows letters, patterns or other recognizable figures. This will also include intentional mutilation such as a split or forked tongue or stretched out holes in the ears.

1044.2.9 TATTOOS

Department members are prohibited from displaying any tattoos while on duty or representing the Department in any official capacity. Members with visible tattoos shall have the following options:

- (a) On duty personnel shall cover all tattoos by wearing a long sleeve shirt and /or pants; or
- (b) Cover the tattoo with a solid black full, half, or ¼ tattoo cover-up sleeve (no logos).
 - 1) Cover-up sleeve must originate under the shirt sleeve; no skin shall be exposed between the cover-up sleeve and the shirt sleeve.
 - 2) Forearm tattoos must be covered with either a full cover-up sleeve or bandage. The bandage shall be no larger than 3" x 4" and limited to one bandage per arm: or
- (c) Have the tattoos removed at the member's expense; or

- (d) Have the tattoo exempted by the tattoo review committee.

1044.3 TATTOO REVIEW COMMITTEE

The committee was created to provide a case-by-case review for members seeking an exemption from the policy requiring all visible tattoos to be covered while on duty or when representing the Department in any official capacity. The committee serves at the discretion of the Chief of Police and will convene at the direction of the committee chair. The Chief retains final control over the appearance of all department members.

The tattoo review committee will be comprised of five members. The Fresno Police Officers' Association and the Fresno City Employees Association will each appoint one member to the committee. The Chief will appoint three members to the committee, including the Committee Chair.

Members wishing to have a tattoo reviewed by the committee will complete a "Visible Tattoo Approval Application" available on the Department network ("L" Drive) and provide photographs of the tattoos to be reviewed. The application and photographs shall be submitted to the review committee's email at tattoo.review@fresno.gov. If the tattoo consists of foreign language symbols or non-English text, the applying member shall accurately state what the symbol or text states when translated to English. The committee will review any text symbols or non-English text before approval. The committee will convene on a quarterly basis, or as needed, to review member submissions.

If the committee has additional questions for the member or wishes to physically see the tattoo being reviewed, a meeting with the committee and member will be scheduled. Members will not be allowed to use overtime to meet with the committee but may attend on duty with their supervisor's permission. The committee chair will inform the member of the committee's decision, in writing, or by electronic mail, within one week of the committee's convening.

If the tattoo is approved to be visible, a copy of the application, photo, and letter of exemption will be kept on file in the member's personnel file in the Personnel Bureau and the member's divisional file. Supervisors should review the member's file to ensure policy compliance.

If the member disagrees with the committee's decision, the member can appeal that decision to the Chief or the Chief's designee. The decision of the Chief on any appeal will be final. As societal norms change over time, exemptions to the visible tattoo policy are not a permanent guarantee, and the Chief has the right to re-evaluate previously approved tattoos to maintain the public's trust. The Chief's decision related to tattoo review approval or disapproval is final and considered non-grievable.

Tattoos that are specifically prohibited from being visible while on duty include the following:

- (a) Tattoos visible on the head, neck, or face;
- (b) Tattoos covering the majority (more than 50%) of the back of hands, fingers, or palms.
 - 1. Tattoos such as a wedding band, initials, or other discrete designs are eligible for committee review provided they are not extreme or excessive;
- (c) Tattoos that are vulgar, profane, or racist in nature;
- (d) Tattoos depicting nude images;
- (e) Tattoos that promote hate or violence;
- (f) Tattoos that violate City of Fresno [AO 2-16](#), harassment, and discrimination; and
- (g) Any tattoo that a member knows or reasonably should know is unbecoming a member of the Department or which is contrary to good order, morale, or tends to reflect unfavorably upon the Department or its members.

1044.4 SUPERVISOR DISCRETION & CONTROL

It shall be the responsibility of supervisors to monitor the appearance of members under their command to ensure that they present a professional appearance, in keeping with accepted standards throughout the Department and the professional community.

Superiors shall instruct their subordinates to maintain these standards. Supervisors may require members under their command to conform to more stringent standards than those described herein when it is necessary to promote acceptance by a particular portion of the public served by a particular unit but shall not impose more stringent requirements based solely on personal preferences.

1044.5 EXEMPTIONS

Members who seek cultural (e.g., culturally protected hairstyles) or other exemptions to this policy that are protected by law should generally be accommodated (Government Code §12926). A member with an exemption may be ineligible for an assignment if the individual accommodation presents a security or safety risk. The Chief of Police should be advised any time a request for such an accommodation is denied or when a member with a cultural or other exemption is denied an assignment based on a safety or security risk.

Fresno Police Department Policy Manual Transgender and Gender Non-Conforming Employees

1045.1 POLICY

The Fresno Police Department is committed to creating and maintaining a work environment that is free of all forms of discrimination and harassment. The Department will take preventative, corrective and disciplinary action for any behavior that violates this policy or the rights and privileges it is designed to protect. This policy is designed to create a safe and productive workplace environment for all members.

1045.1.1 PURPOSE AND SCOPE

The purpose of this policy is to set forth guidelines to address the needs of transgender and gender non-conforming members and clarify how the law should be implemented in situations where questions may arise about how to protect the legal rights or safety of such members. This policy does not anticipate every situation that might occur with respect to transgender or gender non-conforming members, and the needs of each transgender or gender non-conforming member must be assessed on a case-by-case basis.

1045.2 DEFINITIONS

The definitions provided are not intended to label individuals, but rather to assist in understanding this policy.

Gender Expression - An individual's external and social characteristics and behaviors (such as appearance, dress, mannerisms, speech, and social interactions) that may be perceived as masculine, feminine, or androgynous.

Gender Fluid/Genderfluid - A person whose gender identification and presentation shifts, whether within or outside of societal, gender-based expectations. Being fluid in motion between two or more genders.

Gender Identity - An individual's internal sense of being male or female, or something not defined by traditional definitions of male or female.

Gender Non-Conforming - Individuals who display gender traits which are not generally associated with their birth-assigned sex. Gender non-conforming individuals may or may not identify as male, female, or transgender. Also known as gender-variant, gender atypical or androgynous. Keep in mind that these expectations can vary across cultures and have changed over time.

LGBTQ+ (sometimes LGBTQIQA) - A common abbreviation that stands for **L**esbian, **G**ay, **B**isexual, **T**ransgender, **Q**ueer, **I**ntersex, **Q**uestioning, and **A**sexual.

Sexual Orientation - A person's physical and emotional attraction to people of the same and/or other gender. Straight, gay, and bisexual are some ways to describe sexual orientation. It is important to note that sexual orientation is distinct from gender identity and expression. Transgender people can be straight, gay, lesbian, or bisexual, just like non-transgender people.

Transgender - Individuals with a gender identity that is different from the sex assigned to them at birth. Someone who was assigned the male sex at birth but who identifies as female is a transgender woman. Likewise, a person assigned the female sex at birth but who identifies as male is a transgender man. Some individuals who would fit this definition of transgender do not identify themselves as such, and identify simply as men and women, consistent with their gender identity. The guidance discussed in this policy applies whether or not a particular individual self-identifies as transgender.

Transition - The process of changing one's gender from the sex assigned at birth to one's gender identity. There are many different ways to transition. These individuals often seek some form of medical treatment such as counseling, hormone therapy, electrolysis, and reassignment surgery. Some individuals, however, will not pursue some (or any) forms of medical treatment. Transitioning may also include the emotional task of telling one's family, friends, and co-workers, and the process of changing one's name and gender on legal documents and identification.

1045.3 TRANSITIONING EMPLOYEES

Transitioning individuals have the right to openly be who they are. This means that while transitioning employees will still be expected to conduct their professional responsibilities, they may express their gender identity without fear of discrimination or harassment. With that right comes the expectation that they will work with others to ensure their needs are understood and that there will also be expectations made of them. It is important they do their part to make their transition in the workplace successful.

1045.4 PRIVACY/CONFIDENTIALITY

A member's transition should be treated with as much sensitivity and confidentiality as any other member who is going through a significant life experience. Transgender members have the right to discuss their gender identity or expression openly, or to keep that information private. The transgender member decides when, with whom, and how much to share their private information. If a transgender member does choose to share information about their own gender transition, they are reminded that they are still subject to the Policy § 328- Discrimination, Harassment & Retaliation.

Members should not disclose information that may reveal a member's transgender status or gender non-conforming presentation to others without the member's permission, except where legally required. Information about a member's transgender status (such as the sex they were assigned at birth) can constitute confidential medical information under privacy laws like HIPAA. That kind of personal or confidential information may only be shared with the transgender member's consent and with co-workers who truly need to know to do their jobs. If the member is in the process of transitioning from one gender to another, guidance for preparing co-workers and providing workplace sensitivity training is presented in the section below titled Transitioning on the Job.

1045.5 TRANSITIONING ON THE JOB

Transgender members who transition on the job can expect the support of Department management and Personnel staff. The Employee Service Coordinator (ESC) will work with each transitioning member individually to ensure a successful workplace transition.

Any member, who desires to transition from one gender to another, is strongly encouraged to contact the ESC. This initial contact may also be requested by the member's supervisor or other staff with the consent of the transitioning member. ESC will work with the transgender member to assist them in making the transition as smooth as possible. ESC will assist the member with name changes on Department paperwork and computer systems, will work as a liaison with the member's unit of assignment to assist with changes in restroom and/or locker room accessibility if requested, and can help to coordinate educational training for the member's co-workers prior to the transition date. The ESC should periodically contact the transitioning member to determine if the member has any concerns.

The transitioning member's Commander should also assign a supervisor (minimum rank of sergeant/supervisor) from their staff to act as the member's primary point of contact regarding transition issues while at work on a day-to-day basis. This supervisor should be educated on basic transgender terminology and transition issues, and familiar with Administrative Order 2-39. This supervisor should be supportive to the transitioning member. A guide to developing a Workplace Transition Plan is attached at the end of this Policy.

1045.6 SUPERVISOR/MANAGER RESPONSIBILITIES

It is important that supervisors and managers demonstrate an understanding and sensitive approach to the needs and concerns of employees who are transitioning, as their support is critical. It may be frightening to an employee to make themselves vulnerable to a person in a supervisory capacity.

If an employee informs a supervisor or manager of their desire to transition or if an individual in the workplace is currently transitioning, it is the supervisor's or manager's professional responsibility to ensure that the employee is not the target of discrimination or harassment and that compliance is maintained with the city's policy. Any employee's failure to comply with the non-discrimination policy could result in corrective action, including termination of their employment.

Supervisors and managers are not expected to understand all of the employee's needs, but are expected to fully inform themselves and provide the necessary support to enable the individual to receive the assistance they need in a respectful manner. The employee would like to feel confident that the individuals who will help plan their workplace gender transition will take steps to inform themselves about transgender issues.

Supervisors/Managers should:

- (a) Make it clear that the conversation will be held in confidence, not only to ensure the employee's rights are protected but also help avoid inadvertent violations of the employee's right to medical privacy.
- (b) Obtain permission from the employee prior to discussing the transition with or seeking further assistance from anyone, including other staff, your own supervisor, other managers, and the ESC.
- (c) Listen carefully to what the individual is telling you about how they want the workplace transition to proceed.
- (d) Become informed. See the Resources section of this guide as a starting point. Let the employee know that you are taking steps to educate yourself about how you can assist their workplace gender transition, and let the employee also know that you welcome their input.
- (e) Remind them about the additional resources available to them, such as the Employee Assistance Program.
- (f) Make sure the employee is aware of the city's protocols, procedures and encourage them to contact the ESC with any questions or feedback.
- (g) Familiarize themselves with Administrative Order 2-39.

Supervisors/Managers should **NOT**:

- (a) Ask the employee about their medical decisions, as medical information is private and protected by law. If the employee needs time off for medical care or recovery, follow the same steps used for any request for time off for medical reasons.

1045.7 OFFICIAL RECORDS

Transgender members have the right to be addressed by the name and pronoun corresponding to the member's gender identity. The Department will change a member's official record to reflect a change in name and/or gender upon presentation of a current California Driver's License or California Identification Card in the member's new name and/or gender. Information Technology Section should be contacted to change the member's name in the Outlook Address Book database and in HRP

If a new or transitioning member has questions about Department records, identification cards, transitioning on the job, or other transgender-related issues, the member should contact the Employee Services Coordinator.

1045.8 NAMES/ PRONOUNS

A member has the right to be addressed by the name and pronoun that correspond to the member's gender identity, upon request. A court-ordered name or gender change is not required. The intentional or persistent refusal to respect a member's gender identity (for example, intentionally referring to the member by a name or pronoun that does not correspond to the member's gender identity) can constitute harassment and is a violation of Policy § 328- Discrimination, Harassment & Retaliation. When unsure what name or pronoun a transitioning co-worker might prefer, members may politely ask the transitioning co-worker how they would like to be addressed.

Supervisors and managers shall use the name and pronoun requested by the member, regardless of the supervisor's perception of the member's gender expression. Supervisors and managers should also monitor the workplace regularly to make sure co-workers are using the member's desired name and pronoun.

1045.9 RESTROOM ACCESSIBILITY

Members shall have access to restrooms corresponding to their gender identity. Any member who has a need or desire for increased privacy, regardless of the underlying reason, will be provided access to a single stall or private restroom, when available. However, no member shall be required to use such a restroom. All members have a right to safe and appropriate restroom facilities, including the right to use a restroom that corresponds to the member's gender identity, regardless of the member's sex assigned at birth. The decision about which restroom to use should be left to the transgender member to determine the most appropriate and comfortable option for them. (California Protections for Transgender Individuals, AB 1732: The Equal Restroom Access Act, City of Fresno Administrative Order 2-39)

Some members – transgender or non-transgender – may desire additional privacy. Where possible, the effected unit should make available a unisex private or single-stall restroom that can be used by any member who has a need for increased privacy, regardless of the reason. If a single-stall restroom is not available, another option might be to install an "Occupied / Unoccupied" sign and an interior slide lock on the door of a multi-stall restroom, which could be used by any member desiring additional privacy. Under no circumstances may the Department require a member to use facilities that are unsanitary, potentially unsafe for the member, or located at an unreasonable distance from the member's work station.

1045.10 LOCKER ROOM ACCESSIBILITY

All members have the right to use the locker room that corresponds to their gender identity. Transitioning members are not required to provide proof or have undergone any particular medical procedure (including gender reassignment surgery) in order to have access to facilities designated for use by a particular gender. Any member who has a need or desire for increased privacy, regardless of the underlying reason, may be provided with a reasonable alternative changing area, such as the use of a private room. A member's schedule may also be slightly adjusted so that they may use the locker room that corresponds to their gender identity before or after other members. Any alternative arrangement for a transgender member will be provided in a way that allows the member to keep their transgender status confidential, according to their needs.

1045.11 DRESS CODE

Transgender and gender non-conforming members may wear clothing and hair consistent with their gender identity. Transgender and gender non-conforming members must still comply with Department dress codes and grooming standards in a manner consistent with their gender identity or gender expression.

1045.12 SEX-SEGREGATED JOB ASSIGNMENTS

For sex-segregated jobs, transgender employees will be classified and assigned in a manner consistent with their gender identity, not their sex assigned at birth.

Gender Transition Plan Guide

This sample Transition Plan addresses some of the processes that may occur during a member transition. This sample plan should be customized to fit your unit's staffing structure and procedures, and should be modified individually with each transitioning member to meet their individual needs.

Once a tentative Transition Plan has been agreed on, the Employee Service Coordinator (ESC), the members commander, assigned supervisor, and the transitioning member must work together to see that each portion of the plan is addressed. It is important to remember that this plan is flexible and is completely up to the transitioning member. Every member is different and the individual needs of one member may be different than the needs of the member authoring the plan.

Before Gender Transition Begins:

- 1) If the member's Commander has been contacted first, the Commander should immediately notify the ESC so that a liaison may be assigned to the transitioning member with the member's consent. If the ESC is contacted first, ESC personnel should notify the member's Commander as soon as possible.
- 2) An initial meeting should be set up with the transitioning member, their assigned ESC liaison, and a supervisor from their unit of assignment who has been assigned as their primary point of contact. Copies of the Department's transgender-related policies and the availability of transition-related support through Employee Services should be made available to the member.
- 3) Next, if the transitioning member's immediate supervisor was not the first point of contact, a meeting between the ESC liaison and the member's supervisor(s) should be scheduled, with the member's consent, to ensure the supervisor knows of the member's planned transition. The transitioning member may or may not want to attend this meeting.

Note: Management above the transitioning member's supervisor should be made aware of the member's planned transition so that supervisors and management can express their support when the member's transition is made known to the member's co-workers.

- 4) Create a Transition Plan. Make sure it addresses all of the following areas:
 - (a) The date when the transition will officially and formally occur. This means the date that the member will change their gender expression, name, and pronouns. The transitioning member may or may not choose to begin using the restroom and locker room associated with their gender identity on this same date.
 - (b) Decide how, and in what format, the transitioning member's co-workers should be made aware of the member's transition. It is up to the transitioning member to decide if they would like to make some co-workers aware of their transition on a one-on-one basis before it is officially announced.
 - (c) Decide what, if any, training will be given to co-workers. Training may be provided before, during or after transition.
 - (d) Determine what updates should be made to the transitioning member's records and email address, and when these updates will be made.
 - (e) Determine dates of any leave, if needed, for pre-scheduled medical procedures.

The Day the Gender Transition Will Be Made Known to Co-Workers:

- 1) If the transitioning employee has decided, the announcement will be made in a briefing/meeting that includes the member's co-workers, the member's supervisors, and the member's Commander and/or Operations staff. The assigned ESC liaison and support personnel from Employee Services should also attend. It is up to the member whether they feel comfortable attending or would prefer not to be there.
- 2) Preferably, the Commander should announce the transition, along with any other high level management who can attend, showing solidarity with the transitioning member. The speaking supervisor should:
 - (a) Emphasize the transitioning member's importance within the Department and management's complete support of the member's transition.
 - (b) Review the Department's Policy § 328- Discrimination, Harassment & Retaliation
 - (c) Indicate that the transitioning member will be presenting themselves in accordance with their gender identity and this should be respected. The supervisor should also advise co-workers about the transitioning member's new name and preferred pronoun which must be used from this point forward.
 - (d) Address bathroom/locker room concerns.
 - (e) Be an example by using the transitioning member's new name and pronoun.
 - (f) Make a point that the Chief of Police and the City of Fresno are inclusive employers and disrespectful behaviors will not be tolerated.
 - (g) Solicit any questions. Refer questions to the ESC or ES representatives if appropriate.
 - (h) If training is going to occur, the date should be announced at this meeting. If possible, the training should occur before the date of the member's official workplace transition.

The First Day of the Member's Official Workplace Transition:

The transitioning member's supervisor should be clear that all elements are in place, in the same way the supervisor would for a new hire or transferred member. These elements include:

- 1) Making sure the transitioning member has a new Department ID, name tag, if required.
- 2) Making sure the member has an updated locker assignment if necessary.
- 3) Ensuring all work documents and workstations (i.e. mailboxes, business cards, computer log in's, e-mails, etc.) have the appropriate name and gender.
- 4) Continue monitoring the workplace to ensure co-workers are using the member's new name and pronoun and continuing to monitor the workplace to stop inappropriate behaviors or comments.

1046.1 POLICY

The uniform policy of the Fresno Police Department is established to ensure that uniformed members will be readily identifiable to the public through the proper use and wearing of Department uniforms.

1046.1.1 PURPOSE AND SCOPE

Police members wear the uniform to be identified as the law enforcement authority in society. The uniform also serves an equally important purpose to identify the wearer as a source of assistance in an emergency, crisis or other time of need.

Members should also refer to the following associated Policy Manual sections:

- (a) §700 Department Owned and Personal Property;
- (b) §701 Department Issued and Optional Equipment; and
- (c) §1044 Personal Appearance Standards.

1046.2 WEARING AND CONDITION OF UNIFORM AND EQUIPMENT

The designation of members and/or units that are to be in uniform shall be made by the Chief of Police or designee.

- (a) All members of this Department authorized to wear a uniform shall possess and maintain a serviceable uniform and the necessary equipment to perform uniformed field duty at all times.
- (b) All members of this Department authorized to wear a uniform shall be provided with a complete uniform specifications list during initial orientation.
- (c) Uniforms are only to be worn while on-duty, while in transit to or from work, for court, at other official Department functions or events, or if authorized by the Chief of Police.
- (d) If the uniform is worn while in transit, an outer garment shall be worn over the uniform so as not to bring attention to the member while they are off-duty.

For more detailed information, the "Uniform Specification List" can be located at the Personnel Bureau, through the Policy & Procedures Unit, on the Department library at L:\LIBRARY\BLUEBOOK, or authorized uniform shop(s).

1046.2.1 UNAUTHORIZED UNIFORMS, EQUIPMENT, AND ACCESSORIES

Members may not wear any uniform item, accessory or attachment unless specifically authorized in the Uniform Specification List or by the Chief of Police or designee.

Members may not use or carry any safety item, tool or other piece of equipment unless specifically authorized in Policy §701, Department Issued and Optional Equipment, or by the Chief of Police or designee.

1046.2.2 POLITICAL ACTIVITIES, ENDORSEMENTS, AND ADVERTISEMENTS

Members of the Fresno Police Department may not wear any part of the uniform, be photographed wearing any part of the uniform, or identify themselves as a member of the Fresno Police Department to do any of the following (Government Code §§3206 and 3302):

- (a) Endorse, support, oppose, or contradict any political campaign or initiative;
- (b) Endorse, support, oppose, or contradict any social issue, cause, or religion; or
- (c) Endorse, support, or oppose, any product, service, company or other commercial entity.

1046.2.3 PUBLIC FORUMS

Male members required to attend public forums shall wear a business suit, or sport coat with slacks, and tie. Female members shall wear professional clothing of modest style when attending public forums. Uniformed members shall wear a tie with a tie bar and a long sleeve shirt.

1046.2.4 CONCEALMENT OF EQUIPMENT

When outside of Department facilities, non-uniformed sworn members may wear their handgun in a visible manner when they prominently display their badge in a manner that readily identifies the member as a police officer. Otherwise, members shall wear attire that will conceal equipment such as handcuffs and firearms.

1046.3 UNIFORM COMMITTEE

The Chairperson of the Uniform Advisory Committee may authorize members to wear items not specified in the Uniform Specification List on a test basis. The Chairperson shall supply the Training Bureau and authorized uniform shops with complete uniform specifications (e.g., style, construction, and material). The Personnel Bureau and Policy & Procedures Unit shall have the uniform specifications available for review by members.

1047.1 POLICY

Community Service Officers will perform assignments which involve responsible public contact work in crime prevention and the delivery of nonemergency police services as assigned.

1047.1.1 PURPOSE AND SCOPE

CSO's work under direct supervision, performing a variety of nonemergency police services in support of the division they are assigned within the Department.

1047.2 SAFETY ISSUES

Although screening of calls shall be performed prior to assignment of a CSO, the CSO assigned shall be alert to potential hazards. When upon arrival at a call, or during the investigation of an incident, the CSO becomes aware of a potentially hazardous situation or the actual nature of the incident is found to be other than one specified for a CSO to handle, the CSO shall immediately request an officer to respond, via radio. The CSO shall take whatever steps necessary to protect themselves including leaving the immediate area of the call.

1047.3 COMMUNITY SERVICE OFFICER (CSO) RESPONSIBILITIES

CSO's shall:

- (a) Perform assignments which involve responsible public contact work in crime prevention and the delivery of non-emergency police services as assigned;
- (b) Not be responsible for or assigned tasks relative to the immediate apprehension of suspects or known criminals;
- (c) Not confront or pursue subjects when the incident may lead to a physical encounter between the subject and the CSO; and
- (d) Not take any enforcement or prevention action to in-progress incidents. CSO's shall immediately report the location and nature of the incident and assume the role of a witness.

1047.4 PROHIBITED ACTIVITIES

CSO's shall not be dispatched to or assigned to perform any police service when there is a likelihood that the CSO may come in contact with the perpetrator of the crime, or any other hazardous situation.

1047.5 SPECIFIC FIELD ASSIGNMENTS

CSO's may be assigned to calls involving:

- (a) Prior burglary with suspect not present;
- (b) Prior vehicle burglary with suspect not present;
- (c) Follow-up with suspects not present;
- (d) Non-injury and minor-injury vehicle accidents;
- (e) Vehicle blocking a driveway;
- (f) Abandoned vehicle;
- (g) Illegal parker;
- (h) Other traffic problem;
- (i) Barking Dog;
- (j) Prior threatening phone call;
- (k) Missing person other than foul play;
- (l) Suspicious person, information only;
- (m) Prior prowler report;
- (n) Public assist;
- (o) Prior stolen vehicle report;
- (p) Recovered or unfounded stolen vehicles;
- (q) Prior bike theft;

- (r) Prior theft from vehicle;
- (s) Prior theft of vehicle accessories;
- (t) Prior grand theft;
- (u) Prior petit theft;
- (v) Lost property report;
- (w) Found property report;
- (x) Prior vandalism;
- (y) Noise or other disturbances that involve no contact with the offender; and
- (z) Other calls approved by a supervisor or the Department.

CSO's may be assigned to various support service tasks within any division of the Department.

1047.6 SAFETY ISSUES

Although screening of calls shall be performed prior to assignment of a CSO, the CSO assigned shall be alert to potential hazards. When upon arrival at a call, or during the investigation of an incident, the CSO becomes aware of a potentially hazardous situation or the actual nature of the incident is found to be other than one specified for a CSO to handle, the CSO shall immediately request an officer to respond, via radio. The CSO shall take whatever steps necessary to protect themselves including leaving the immediate area of the call.

While investigating vehicle accidents, when the CSO suspects that any party to the accident has committed a crime (except offenses for which a CSO may issue a citation), the CSO shall immediately call for an officer and a supervisor. Once the officer has stabilized the situation, the CSO shall continue their investigation unless advised by the supervisor to do otherwise.

1047.7 CSO UNIFORMS

CSO assigned to positions in the Patrol Division shall be in uniform. The bureau commander/manager has the discretion to allow a CSO to wear plainclothes due to the variation of a duty assignment or need for the day. (See Policy §1046 for uniform guidelines.) These uniform regulations will be strictly adhered to.

1048.1 POLICY

The Cadet Program (Cadet I & II) is a four year maximum position (Fresno Municipal Code §3-266) and is used to prepare individuals for a career in law enforcement, as such, cadets shall be held to the same standards of conduct as a regular police officer established in the Policy Manual.

1048.1.1 PURPOSE AND SCOPE

Cadets work under direct supervision, perform a variety of routine and progressively more advanced tasks in an apprenticeship program in preparation for a career in law enforcement.

1048.2 POLICE CADET PROGRAM

The authority to appoint qualified persons to the position of police cadet is vested in the Chief of Police. Cadets progress through a two stage program; Police Cadet I and Police Cadet II (which includes police academy training).

Police cadets are prohibited from having ride-alongs.

1048.2.1 POLICE CADET I

A Police Cadet I is a non-sworn public officer who assists police personnel in nonhazardous duties.

Police Cadet I duties include, but are not limited to:

- (a) Completing police reports after conducting non-hazardous investigations;
- (b) Collecting evidence at crime scenes;
- (c) Booking property and evidence;
- (d) Processing and identifying persons through fingerprints;
- (e) Traffic and parking control;
- (f) Performing related clerical duties; and
- (g) Other unspecified non-emergency duties as assigned by their assigned supervisor.

1048.2.2 POLICE CADET II

A Police Cadet II is a non-sworn, public officer who is assigned to the police academy or has successfully completed a California Law Enforcement Basic Academy approved by the Commission on Peace Officer Standards and Training.

Police Cadet II duties include, but are not limited to the following:

- (a) Transporting and/or booking of in-custody arrestee(s) to/from the FCJ, FCJH and HQ/IDS;
- (b) Serving arrest warrants on arrestee(s) that have been transported to the FCJ or FCJH for such warrant arrest;
- (c) Providing standby guard duty for injured prisoners and prisoner standby;
- (d) Traffic and parking control;
- (e) Investigation of non-injury traffic collisions;
- (f) Assist police officers with non-enforcement duties as needed;
- (g) Completion of paperwork related to their duties;
- (h) Other unspecified transportation or non-enforcement duties as assigned by the Division Commander and approved by their assigned supervisor; and
- (i) Attending the Police Academy when assigned to do so.

Police Cadet II's assigned to transportation duty (the "wagon") will be assigned to the Patrol Division. These Cadets will not be responsible for the completion of the paperwork related to an arrest by a

police officer unless requested to do so by their supervisor. Police Cadet II's shall only be dispatched to transportation calls while working in this capacity.

Police Cadet II's shall respond to calls for service only when they are requested to do so by an officer at the scene or dispatched by the ComCen. They shall not respond to in-progress incidents unless it involves one of their specified duties, (i.e. traffic collisions). When a Police Cadet arrives on, or is confronted by, an in-progress incident, they shall immediately report the location and nature of the incident and assume the role of a witness including leaving the immediate area of the call if necessary.

1048.3 SAFETY ISSUES

Although screening of calls shall be performed prior to the assignment of a police cadet, the cadet assigned shall be alert to potential hazards.

During transport, a Police Cadet II may use physical force to prevent an escape, overcome resistance, or to defend themselves and others from injury (See Policy §300- Use of Force).

Police Cadet II's are allowed to possess firearms only while engaged in specific duties as outlined in Policy § 312.

Upon arrival at a call, or during the investigation of an incident, when the cadet becomes aware of a potentially hazardous situation or the actual nature of incident is found to be other than one specified for a cadet to handle, the cadet shall immediately request an officer to respond. The cadet shall take whatever steps necessary to protect themselves including leaving the immediate area of the call.

When, while investigating an incident, a cadet suspects that a crime has been committed and enforcement action may be necessary; they shall request that an officer respond. Once the officer has stabilized the situation; the cadet shall continue their investigation unless advised otherwise by the officer or supervisor.

The Police Cadet II is allowed to possess their Department issued firearm only while engaged in specific duties outlined under Sections 1048.2.2 (a), (b) and (c). When not performing duties outlined above, Cadet II's shall transport and store their Department issued firearm consistent with State law. Cadet II's are subject to the same range qualifications as listed in Policy §312.6.

1048.4 CADET COORDINATOR

The Cadet Coordinator will be responsible for tracking the educational and job performance of cadets as well as making their individual assignments throughout the Department.

1048.5 ORIENTATION AND TRAINING

Newly hired cadets will receive an orientation of the organization and facilities before reporting to their first assignment. On the job training will be conducted in compliance with the Police Cadet Program Manual. In addition to job specific training, information will be offered to prepare cadets to compete successfully for assignment to the Police Academy.

All training will focus on improving job performance, as well as preparation to become police officers.

1048.6 POLICE CADET STAFFING REQUIREMENTS

- (a) Police Cadet staffing is subject to the needs of the Department; and
- (b) When Police Cadet II's not are available to serve as transportation officers, the Department may order back a Police Cadet II to fill the vacant slot or utilize an extra patrol officer to function as a transportation officer.

1048.7 CADET UNIFORMS

Police cadet assignments will require a cadet uniform, unless specific permission is given to wear plainclothes, from the Commander or Manager of the cadet's area of assignment (See Policy §1046 for uniform guidelines). These uniform regulations will be strictly adhered to.

1048.8 ROTATION OF ASSIGNMENTS

Rotating job assignments should occur every six to eight months, to enhance the career development for each cadet, as determined by the Cadet Coordinator. Department needs and concerns will take precedence over individual considerations.

1048.9 RIDEALONG PROCEDURES

All cadets are authorized to participate in the Ride-Along Program on their own time and as approved by their immediate supervisor.

1048.10 PERFORMANCE EVALUATIONS

Performance evaluations for all cadets shall be completed by the cadet's immediate supervisor every three months (quarterly) The evaluations will be sent to the FTO/Cadet Coordinator to be added to the cadet's personnel folder. Cadets assigned to the Police Academy do not require evaluations.

1049.1 POLICY

Park Rangers (PRs) will inform the public about parks, recreation facilities, activities, environmental awareness, and education on the proper use of park recreation facilities operated by the City of Fresno.

1049.1.1 PURPOSE AND SCOPE

PRs work under close supervision of the Fresno Police Department, performing a variety of non-sworn enforcement of State and City Municipal Codes. PRs are responsible for enforcing rules and regulations within public parks, trails, and recreation facilities operated by the City of Fresno while supporting their assigned policing district.

1049.2 PARK RANGER RESPONSIBILITIES

PRs should:

- (a) Provide information to the public on parks, recreational facilities, activities, environmental awareness, and education on the proper use of park recreation facilities operated by the City of Fresno;
- (b) Issue warnings and citations as required by law;

1049.3 PROHIBITED ACTIVITIES

PRs shall not:

- (a) Be dispatched to or assigned to perform any police service when there is a likelihood that the PR may encounter the perpetrator of the crime or any other hazardous situation;
- (b) Be responsible for or assigned tasks relative to the immediate apprehension of suspects or known criminals;
- (c) Confront or pursue subjects when the incident may lead to a physical encounter between the subject and the PR;
- (d) Take any enforcement or prevention action to in-progress incidents. PRs shall immediately report the location and nature of the incident while assuming the role of a witness.

1049.4 SPECIFIC FIELD ASSIGNMENTS

PRs may be assigned to take calls and reports within public parks, trails, and recreation facilities operated by the City of Fresno involving:

- (a) Prior burglary with suspect not present;
- (b) Prior vehicle burglary with suspect not present;
- (c) Follow-up with suspects not present;
- (d) Non-injury and minor-injury vehicle accidents;
- (e) Vehicle blocking a roadway;
- (f) Abandoned vehicle;
- (g) Illegal parker;
- (h) Other traffic problems;
- (i) Animal complaints;
- (j) Prior threatening phone call;
- (k) Missing person other than foul play;
- (l) Suspicious person, information only;
- (m) Public assistance;
- (n) Prior stolen vehicle report;

- (o) Recovered or unfounded stolen vehicles;
- (p) Prior bike theft;
- (q) Prior theft from vehicle;
- (r) Prior theft of vehicle accessories;
- (s) Prior grand theft;
- (t) Prior petty theft;
- (u) Lost property report;
- (v) Found property report;
- (w) Prior vandalism;
- (x) Noise or other disturbances that involve no contact with the offender; and
- (y) Other calls approved by a supervisor or the Department.

PRs shall perform all related duties as required or directed and may be assigned to various community events designated by the commander of their policing district. The events should be within public parks and recreational facilities operated by the City of Fresno.

1049.5 SAFETY ISSUES

Although screening of calls shall be performed before the assignment of a PR, the PR assigned shall be alert to potentially dangerous situations. Upon arrival at a call for service or during the investigation of an incident, if the PR becomes aware of a potentially dangerous situation or the actual nature of the incident is found to be other than specified for a PR to handle, the PR shall immediately request an officer to respond. The PR shall take whatever steps necessary to protect themselves, including leaving the immediate area of the call.

While investigating vehicle accidents, when the PR suspects that any party to the accident has committed a crime (except offenses for which a PR may issue a citation), the PR shall immediately call for an officer. Once the officer has stabilized the situation, the PR shall continue their investigation unless advised otherwise.

1049.6 PARK RANGER UNIFORMS

PRs assigned to positions in the Patrol Division shall be in uniform. The bureau commander/manager has the discretion to allow a PR to wear plain clothes due to the variation of a duty assignment or need for the day. (See Policy §1046 for uniform guidelines.) These uniform regulations will be strictly adhered to.

1050.1 POLICY

All members shall avoid situations which give rise to an actual or apparent conflict of interest between their professional responsibilities and their relationships with other members.

1050.1.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure effective supervision, safety, security, performance, assignments and discipline while maintaining positive morale by avoiding actual or perceived favoritism, discrimination, or other actual or potential conflicts of interest by or between members of the Department.

1050.2 DEFINITIONS

Business Relationship – Serving as an employee, independent contractor, compensated consultant, owner, board member, shareholder, or investor in an outside business, company, partnership, corporation, venture, or other transaction where the Department member's annual interest, compensation, investment, or obligation is greater than \$250.

Conflict of Interest – Any actual, perceived or potential conflict of interest in which it reasonably appears that a Department member's action, inaction, or decisions are or may be influenced by the member's personal or business relationship.

Personal Relationship – Includes marriage, dating, cohabitating, or any other intimate relationship beyond mere friendship.

Relative – A member's "relative by blood or marriage within the third degree" includes parents, children, siblings, grandparents, grandchildren, uncles/aunts, nieces/nephews, first cousins, great grandparents, and great grandchildren, as well as the spouses or domestic partners of each.

Subordinate – A member who is subject to the temporary or ongoing direct or indirect authority of a supervisor.

Supervisor – A member who has temporary or ongoing direct or indirect authority over the actions, decisions, evaluation, and/or performance of a subordinate member.

1050.3 RESTRICTED DUTIES AND ASSIGNMENTS

While the Department will not prohibit personal or business relationships between members, the following reasonable restrictions shall apply [Government Code §12940(a)]:

- (a) Members are prohibited from directly supervising, or being directly supervised by, any other member who is a relative or with whom they are involved in a personal or business relationship.
 - 1) If circumstances require that such a supervisor/subordinate relationship exist temporarily, the supervisor shall make every reasonable effort to defer matters involving the involved member to an uninvolved supervisor.
 - 2) When personnel and circumstances permit, the Department will attempt to make every reasonable effort to avoid placing members in such supervisor/subordinate situations. The Department however, reserves the right to transfer or reassign any member to another position within the same classification as it may deem necessary in order to avoid conflicts with any provision of this policy.
- (b) Members are prohibited from participating in, contributing to, or recommending promotions, assignments, performance evaluations, transfers or other personnel decisions affecting a member who is a relative, or with whom they are involved in a personal or business relationship.
- (c) Police Training Officer's (PTO's) will not be assigned to train relatives, members with whom they have (or had) a personal relationship, and/or members with whom they have a business relationship.

Members who are relatives or otherwise involved in a personal relationship, should not be assigned to work together in a specific unit or team. When they are assigned within the same Bureau, District, or shift, they shall not be assigned together as a double-unit.

1050.3.1 MEMBERS RESPONSIBILITY

Prior to entering into any personal or business relationship or other circumstance which the member knows or reasonably should know could create a conflict of interest or other violation of this policy, members shall promptly notify their uninformed, immediate supervisor.

Whenever any member is placed in circumstances which would require the member to take enforcement action or provide other official information or services to any relative or other individual(s) with whom the member is involved in a personal or business relationship, the member shall promptly notify their uninformed, immediate supervisor.

1050.3.2 SUPERVISORS RESPONSIBILITY

Upon being notified of or becoming aware of any circumstance which could result in or constitute an actual or potential violation of this policy, a supervisor shall take all reasonable steps to resolve the conflict. Supervisors shall also promptly notify their division commander of such actual or potential violations through the chain of command.

1050.3.3 AUTHORITY TO TRANSFER

Division Commanders, or their designee, shall have the authority to transfer involved members should their relationship impair their ability to do their job, or involve potential conflicts of interest. In the case of any such transfer the Department will, to the extent reasonably possible, attempt to accommodate the affected members by maintaining their respective workdays and assigned hours.

1058.1 POLICY

Any Department member or its agent authorized to post information on any Department or City social media site shall use caution to ensure the information is true, timely, and accurate, prior to posting to any social media site. Under no circumstances shall confidential information be posted on any social media site. Refer to Policy §346 for scope of release as well as restricted information.

1058.1.1 PURPOSE AND SCOPE

This policy is intended to provide guidelines for social media uses for the Fresno Police Department. Social media sites and applications are primarily mobile and Internet based tools for information sharing and discussion and used to reach constituents to not only disburse, but also receive information and requests. Social media combines social interaction with technology which can integrate text, audio, video and graphics or pictures. Examples of such systems are Facebook, Twitter, MySpace, weblogs, texting as well as real-time web communications such as instant messaging.

1058.2 SOCIAL MEDIA

Social media may be used to provide information to our community. Information not appropriately shared with the public in other settings should not be posted via social media platforms either. This applies to written, audio, photographic and video information.

Work related use of any Department or City social media site by Department members is limited to platforms approved by the Chief of Police and administered by the Department PIO. In order to utilize an approved platform, the member must be authorized to release information per Policy §346, and utilize an account that is approved by the PIO.

1058.3 APPLICABILITY

This policy applies to any member or agent of the Fresno Police Department who utilizes social media sites, tools or technology in an administrative capacity or as an agency representative. This includes all forms of communication including, but not limited to, film, video, print media, public or private speech, use of all Internet services, including the World Wide Web, email, file transfer, remote computer access, news services, social networking, social media, instant messaging, blogs, forums, video and other file-sharing sites.

1058.4 DEPARTMENT PROPERTY

Any information that is posted on a Fresno Police Department sanctioned social media site and/or is posted by a Department member via a City network, email or other electronic account is considered the property of the Department. All use of social media and information is governed by applicable state and federal laws and regulations as well as any usage policies and administrative orders by the City of Fresno. This includes any copyright and records retention laws. It should be noted that any information that is posted on any social media site by a Department member utilizing City Information Systems and/or accounts are subject to be discovered as governed by the Freedom of Information Act (FOIA) and the Public Records Act (PRA) which can be disclosed via a PRA request.

1058.4.1 PRIVACY EXPECTATION

Members forfeit any expectation of privacy with regard to anything published or maintained through file-sharing software or any Internet site open to public view (e.g., Facebook, MySpace). Any information created, transmitted, downloaded, exchanged, or discussed in a public online forum may be accessed by the Department at any time without prior notice. Members should be aware that privacy settings and social media sites are constantly in flux, and they should never assume that personal information posted on such sites is protected.

1058.4.2 DEPARTMENT MAINTAINED SOCIAL MEDIA SITES / PAGES

All Department maintained social media sites or pages shall be approved by the Chief of Police or designee and shall be administered by the Departmental Public Information Officer (PIO).

General guidelines:

- (a) Where possible, social media pages shall clearly indicate they are maintained by the Department and shall have Department contact information prominently displayed;
- (b) Social media content shall adhere to applicable laws, regulations, and policies, including all information technology and records management policies;
 - 1) Content is subject to public records laws. Relevant records retention schedules apply to social media content; and
 - 2) Content must be managed, stored, and retrieved to comply with open records laws and e-discovery laws and policies.
- (c) Where possible, social media pages should state that the opinions expressed by visitors to the page(s) do not reflect the opinions of the Department;
 - 1) Pages shall clearly indicate that posted comments will be monitored and that the Department reserves the right to remove obscenities, off-topic comments, and personal attacks; and
 - 2) Pages shall clearly indicate that any content posted or submitted for posting is subject to public disclosure.

1058.5 APPROVED USES OF SOCIAL MEDIA

Department members may utilize social media sites:

- (a) As an investigative tool to seek evidence or information regarding: missing persons; wanted persons; gang participation; crimes perpetrated online (i.e., cyberbullying, cyberstalking); and photos or videos of a crime posted by a participant or observer;
- (b) For community outreach and engagement including: Providing crime prevention tips; offering online-reporting opportunities; sharing crime maps and data; and soliciting tips about unsolved crimes (i.e., Crimestoppers, text-a-tip);
- (c) To make time-sensitive notifications related to road closures, special events, weather emergencies, and missing or endangered persons;
- (d) As a recruitment mechanism for persons seeking employment and volunteer positions within the Department; and
- (e) As otherwise approved by the PIO.

1058.6 INVESTIGATIVE SOCIAL MEDIA ACCOUNTS

Department members may utilize social media sites as an investigative tool to accomplish the following objectives:

- (a) Seeking evidence or information about personal associations, friends and/or acquaintances of criminals, or wanted persons;
- (b) Seeking evidence or information about gang participation and affiliation;
- (c) Seeking evidence or information about criminal activities, including online criminal activities;
- (d) Seeking evidence or information, such as photos or videos of a crime posted by a participant or observer;
- (e) Seeking evidence or information to verify or substantiate information from other sources.

Department members shall not use investigative social media sites to seek or retain information about:

- (a) Individuals or organizations solely on the basis of their religious, political, social views;
- (b) An individual's participation in a non-criminal organization or lawful event;
- (c) An individual's race, ethnicity, citizenship, disability, gender, or sexual orientation, unless such information is relevant to identify an individual's connection to criminal conduct.
- (d) Unless such information is relevant to identify an individual's connection to criminal conduct or another legitimate public safety purpose.

1058.6.1 APPROVAL OF INVESTIGATIVE SOCIAL MEDIA ACCOUNTS

Department member shall not create an investigative social media account unless they have the approval of their Bureau Commander. Once approved the use of investigative social media accounts shall be established and coordinated through the Bureau commander, or designee. Once a member leaves the investigative unit, they shall check with their direct supervisor(s) to see if the continued use of the account is beneficial to the department and the unit. If decision to keep account is made, the member shall continue the use of the account in their new position with approval of their new supervisor. If the account is no longer needed, the account will be closed by the member.

Once an investigative Social Media Account is closed the member shall ensure that a retention of all available data from the account is made to be ready for any future reference.

1058.6.2 CONFLICT AVOIDANCE OF ACCOUNTS & DOCUMENTATION

Once approved all investigative Social Media Accounts shall be phoned into the WSIN/LA Clear fusion center. Assigned member shall provide the fusion center with the username/handle of the investigative Social Media Accounts. This will serve as the record of the account.

1058.7 CONDUCT

When using social media in an administrative capacity or as an agency representative for Department business, all City regulations, rules and standards of conduct are applicable. Use of City systems including cell phones, email, computers, Internet, etc. for social media that is not related to City of Fresno business operations is prohibited. The City's systems shall not be used for personal gain and/or benefit.

Members authorized to use social media in an administrative capacity or as an agency representative for Department business will:

- (a) Prior to use, ensure they have the appropriate knowledge of how the account and platform work. This is gained through training received by the PIO or other properly trained supervisor;
- (b) Utilize the account to disseminate information in a timely manner;
- (c) Act in a respectful manner, maintaining professionalism in their interactions on social media sites;
- (d) Post information in a factual and clear manner that summarizes the event, but keeps the post to a minimum. Brevity and photos are the preferred methods of relating an incident.
 - 1) Photographs which have been downloaded and/or emailed to a supervisor to be used for the Fresno Police Department Facebook page or End of Watch Report shall be identical to those photographs that were downloaded into DMMS;
- (e) Maintain the privacy of information in accordance with the provisions of Policy §810 - Release of Records and Information. This includes, but is not limited to;
 - 1) Applicable privacy protection laws [Health Insurance Portability and Accountability Act (HIPAA)]; and
 - 2) The release of photos and/or videos which might compromise the privacy of citizens (e.g. the interior of their residences, faces of uninvolved persons, juveniles or license plates). Generally, photos of areas not open to public view should not be posted.
- (f) Identify themselves at the conclusion of each post by name, badge number and assignment. This will allow for identification of the person making the post; and
- (g) Log out of the account when not in use;

Members may respond to questions regarding Department policy on the posts they created. All other inquiries shall be handled by the PIO.

Members authorized to use social media in an administrative capacity or as an agency representative for Department business shall not:

- (a) Modify any account settings or delete posts unless expressly authorized by the Chief of Police or PIO;
- (b) Engage in exchanges that are offensive and/or adversarial; and

- (c) Misrepresent any information.

1058.8 PROHIBITED SPEECH, EXPRESSION AND CONDUCT

When using social media, members should be mindful that their post becomes part of the worldwide electronic domain. Therefore, adherence to the Department's code of conduct is required in the use of social media. In order to meet the Department's safety, performance and public-trust needs, the following are prohibited:

- (a) Posts containing obscene or sexually explicit language, images, or acts and statements or other forms of speech that ridicule, malign, disparage, or otherwise express bias against any race, any religion, or any protected class of individuals;
- (b) Posts involving themselves or other Department members reflecting behavior that would reasonably be considered reckless or irresponsible; and
- (c) Posts containing any confidential information.

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APPENDIX

STATUTES AND LEGAL REQUIREMENTS

Items listed in this section include sections from the Penal Code (PC), Welfare and Institutions Code (WI), and Government Code (GC).

Definitions

PC § 422.55 – Provides general definition of hate crimes in California

PC § 422.56- Provides definitions of terms included in hate crimes statutes

GC § 12926- Disability-related definitions applicable to some hate crime statutes

Felonies

Hate Crimes

PC § 422.7 - Commission of a crime for the purpose of interfering with another's exercise of civil rights

Related Crimes

PC § 190.2(a)(16) - Homicide penalties related to certain hate crime-related acts

PC § 190.03(a) - Homicide penalties related to certain hate crime-related acts

PC § 288(b)(2) - Sexual assault of dependent person by caretakers

PC § 368(b) - Dependent adult abuse generally - may apply as disability-related hate crimes

PC § 594.3 - Vandalism of places of worship

PC § 11141.2 - Causing or attempting to cause others to refrain from exercising religion by threats

PC § 11141.3 - Arson or destructive device at place of worship

Misdemeanors

Hate Crimes

PC § 422.6 - Use of force, threats, or destruction of property to interfere with another's exercise of civil rights

PC § 422.77 - Violation of civil order (Bane Act) protecting the exercise of civil rights

Related Crimes

PC § 302 - Disorderly conduct during an assemblage of people gathered for religious worship at a tax-exempt place of worship

PC § 423.2(b), (d), (f) - Crimes against places of religious worship

PC § 538(c) - Unauthorized insertion of advertisements in newspapers and redistribution to the public

PC § 640.2 - Placing handbill notice of advertisement on a consumer product or product packaged without authorization

PC § 11411 - Terrorism of owner or occupant of real property. Placement or display of sign, symbol, or other physical impression without authorization engagement in pattern of conduct or burning or desecration of religious symbols

Enhancements

PC § 190.2(a)(16) - Special circumstances imposing the Death Penalty or Life Without Possibility of Parole, if the victim was intentionally killed because of sexual orientation, gender, or disability.

PC § 190.3 - Special circumstances imposing life without the possibility of parole if the victim was intentionally killed because of sexual orientation, gender, or disability.

PC § 422.75 - Penalty for felony committed because of victim's race, color, religion, nationality, country or origin, ancestry, disability, or sexual orientation shall be enhanced one, two, or three years in prison, if the person acts alone; and two, three, or four years if the person commits the act with another.

PC § 1170.8 - Enhancement for robbery or assault at a place of worship.

PC § 1170.85(b) - Felony assault or battery enhancement due to age or disability.

Reporting

PC § 13023- Requirement for law enforcement agencies to report hate crime data to Department of Justice.

WI 15630- Elder and Dependent Adult Abuse Mandated Reporting (may apply in disability-related hate crimes).

Training and Policy Requirements

PC § 422.87 - Hate crimes policy adoption and update requirements (Assembly Bill (AB) 1985, Effective January 1, 2019).

PC § 13519.6 - Defines hate crime training requirements for peace officers.

PC § 13519.41 - Training requirements on sexual orientation and gender identity-related hate crimes for peace officers and dispatchers (AB 2504, Effective January 1, 2019).

Miscellaneous Provisions

PC § 422.78 - Responsibility for prosecution of stay away order violations.

PC § 422.86 - Public policy regarding hate crimes.

PC § 422.89 - Legislative intent regarding violations of civil rights and hate crimes.

PC § 422.92 - Hate crimes victims brochure requirement for law enforcement agencies.

PC § 422.93 - Protection of victims and witnesses from being reported to immigration authorities.

GC § 6254 - Victim confidentiality.



How to Report Hate Crimes and Incidents and Get Help

California Department of Justice Victims' Services Unit

California Attorney General Rob Bonta offers the following information on how to identify and report hate crimes and incidents, and the services available to victims.

Hate crime or hate incident?

There is a difference between a hate crime and a hate incident as explained below:

A hate crime is a misdemeanor or felony criminal act committed against a person, group, or property that is motivated by hatred or intentional bias against the victim's real or perceived protected identity characteristic. A perceived protected identity characteristic includes being regarded as, perceived as, or treated as having the protected characteristic, regardless of whether the perception is accurate. You may be a victim of a hate crime if you have been targeted because of your actual or perceived:

- Physical or mental disability,
- Gender, which means sex, and includes gender identity and gender expression,
- Nationality,
- Race or ethnicity,
- Religion,
- Sexual orientation, or
- Association with a person or group with one or more of these "actual" or "perceived" characteristics.
- Under civil law, there are additional protected identity characteristics not included here.

A victim includes, but is not limited to, a person, family, group, community center, educational facility, entity, office, meeting hall, place of worship, private institution, public agency, library, or other victim or intended victim of the offense.

A hate incident is an action or behavior motivated by hate or intentional bias toward a protected group that does not rise to the level of a crime. Freedom of speech under the U.S. and California Constitutions allows hateful rhetoric as long as it does not interfere with the civil rights of others. You should report hate incidents to your local law enforcement agency. If a hate incident escalates to threats or criminal activity against a person or property, then it could be classified as a hate crime. You may also be entitled to civil relief if you are exposed to a hate incident.

Examples of hate incidents include:

- Name-calling, insults, slurs, derogatory comments, and epithets lodged at a protected group that do not threaten violence.
- Displaying hateful materials on one's own real property that do not threaten violence.
- Wearing clothing with a hateful message that does not threaten violence.
- Distribution of materials with hateful messages in public places that do not threaten violence.

How to spot a hate crime:

Signs that a crime was motivated by hate or bias may include:

- The offender chose the victim or property because they belonged to a protected group, e.g., a certain religion, race, or gender.
- The offender made written or verbal comments showing prejudice, e.g., slurs, symbols.
- The crime happened at a location that is significant for the victim's protected group, e.g., a house of worship, a community center, a parade, or a cultural celebration.
- The crime happened on a date that is significant for the victim's protected group, e.g., a religious holiday, a cultural holiday such as Chinese New Year or Pride celebrations, or an anniversary date.
- There is organized hate activity in the area.

If you are in danger, call 911 or contact your local law enforcement agency immediately. Once you are no longer in danger and have obtained any needed medical attention, if feasible you could:

- Save any physical evidence, e.g., graffiti, broken objects or projectiles, write down everything you remember, and take photos.
- Get the names and contact information of other victims and witnesses and any descriptions and information they may have about the offender(s).

If you witness a hate crime, you should report the crime to your local law enforcement agency.

- The California Department of Justice has tools and resources available to aid and assist local, state, and federal law enforcement authorities in the investigation of possible hate crimes, including the identification, arrest, prosecution, and conviction of the perpetrators of those crimes.

What you and your community can do to combat hate:

- **Understand the problem.** All stakeholders can work together to understand the local problem so that solutions can be developed.
- **Speak out and raise awareness.** Publicly condemn hate and intolerance and ask public officials to do the same.
- **Foster law enforcement-community partnerships.** Strong law enforcement-community partnerships can be highly effective at preventing and properly responding to hate crimes.
- **Human Relations Commissions** can promote community understanding, provide support to victims, and work to prevent future hate crimes and incidents. They can also educate law enforcement and the public about hate crimes and incidents, track trends, and advocate for policy changes.

Information for victims:

The California Victims' Bill of Rights (Cal. Const., art I, § 28), known as Marsy's Law, and the Penal Code give you important legal rights in a criminal case when you are the victim of a hate crime. Victims of hate crimes and hate incidents may also be entitled to civil remedies through the civil courtsⁱ under the Ralph Civil Rights Act (Civ. Code, § 51.7), and the Tom Bane Civil Rights Act (Civ. Code, § 52.1).

- **The right to payment for your losses.** In a criminal case, you can seek and secure restitution to pay for your property losses, medical expenses, including reimbursement for the reasonable costs of counseling, lost wages, and other losses. In a civil case, the court may also grant an order to reimburse you for actual losses, in addition to non-economic losses, such as emotional distress. A civil court may order the person who harmed you; the defendant, to pay you exemplary or punitive damages, to pay your attorneys' fees if you hired a lawyer to help with your civil case, and/or to pay you \$25,000 for violating your civil rights.
- **The right to share your story.** In a criminal case, you can tell the court how the crime impacted your life before the defendant is sentenced.
- **The right to information about the criminal case.** You are entitled to receive specific information about the criminal case from the prosecutor, including but not limited to the following information: (1) the arrest of the defendant; (2) the charges filed; (3) the conviction, sentencing, and/or incarceration of the defendant; and, if applicable, (4) the scheduled release date of the defendant. You may also request to receive reasonable notice of public proceedings and parole or other post-conviction release proceedings.
- **The right to get help from the court for safety.** The court can issue orders that could help you, such as a criminal or civil protective or restraining order to protect you, your known immediate family, or your domestic partner from further acts of violence, threats, stalking, or harassment by the defendant, including an order to keep the defendant away from you.
- **The right to privacy regarding your immigration status.** If you are a victim or witness to a hate crime, law enforcement may not detain you for any actual or suspected immigration violation, or report you to federal immigration authorities, unless you are charged with or convicted of committing certain crimes under state law. California law prohibits law enforcement authorities from asking individuals, including those who are reporting or are victims of potential crimes, about their immigration status. However, individuals seeking to obtain a U visa (Visa for a crime victim) or a T visa (Visa for a human trafficking victim), may wish to provide information about their immigration status to law enforcement authorities to be certified for a U visa or T visa.

Where to find help:

- **Contact 911 or go to a local hospital if you need immediate medical attention. To file a report, contact your local law enforcement agency.**
- **CA vs. Hate Resource Line and Network**
CA vs. Hate is not a law enforcement reporting line but you can report hate crimes and incidents at (833) 866-4283 or report on-line at <https://stophate.civilrights.ca.gov/s/>. Reporting will stop the normalization of hate in our communities, and ensure impacted individuals get help. CA v. Hate also provides access to culturally competent resources and support for communities and victims.

ⁱ Only the government can prosecute criminal cases. Punishment in criminal cases may include, but is not limited to, jail time, fines, or other penalties or conditions in lieu of jail time. In contrast, civil cases can be filed by individuals, entities, or the government. Civil cases resolve disputes concerning civil laws and a lesser burden of proof applies than in criminal cases. Going to jail is not a consequence in civil cases.

- **California Attorney General's Office Victims' Services Unit**

The Victims' Services Unit offers crime victims and their families support at every stage of the criminal process. For more information call (877) 433-9069 or visit oag.ca.gov/hatecrimes.

- **California Civil Rights Department (CRD)**

The CRD is the state agency charged with enforcing the Ralph Civil Rights Act. If you have been a victim of a hate crime or hate incident, you can file a complaint with CRD against the person who harmed you. For more information on how to file a complaint, visit Calcivilrights.ca.gov/complaintprocess, or call (800) 884-1684 (Toll Free) or (800) 700-2320 (TTY).

- **Local District Attorney's Office Victim Witness Assistance Center**

Each county and the City of Los Angeles has a Victim Witness Assistance Center that works directly with the California Victim Compensation Board to help victims. For information on a local office and resources, visit victims.ca.gov/victims/localhelp.aspx.

SUPPLEMENTAL HATE CRIME REPORT

Page 1 of 2

☐ Hate incident (No Crime Committed)

☐ Hate Crime (422.6 PC, 51.7 CC, 52.1 CC)

VICTIM

VICTIM TYPE

☐ Individual

Legal name (Last, First): _____

Date of Birth	Age	Sex	Race

☐ School, business or organization

Name: _____

Type: _____
(e.g., non-profit, private, public school)

☐ Faith-based organization

Name: _____

Faith: _____

☐ Other

Name: _____

Type: _____

Address: _____

Date and time of incident: _____

Location of incident: _____

Date and time of report: _____

Location of report: _____

Agency Case #: _____

NATURE OF CALL FOR SERVICE (check all that apply)

☐ Crime against persons

☐ Crime against property

☐ Gang activity

☐ Other _____

BIAS

TYPE OF BIAS (Check all characteristics that apply)

☐ Disability

☐ Gender

☐ Gender identity/expression

☐ Sexual orientation

☐ Race

☐ Ethnicity

☐ Nationality

☐ Religion

☐ Significant day of offense
(e.g., 9/11, holy days)

☐ Association with a person or group with
one or more of these characteristics
(actual or perceived)

☐ Other: _____

ACTUAL OR PERCEIVED BIAS – VICTIM'S STATEMENT

☐ Actual bias [Victim has the indicated characteristic(s)].

☐ Perceived bias [Suspect believed victim had the indicated
characteristic(s)].

REASON FOR BIAS:

Do you feel you were targeted based on one of these characteristics?

☐ Yes ☐ No

Do you know what motivated the suspect to commit this crime?

☐ Yes ☐ No

Do you feel you were targeted because you associated yourself with an
individual or a group?

☐ Yes ☐ No

Are there indicators the suspect is affiliated with a Hate Group
(i.e., literature/tattoos)?

☐ Yes ☐ No

Are there Indicators the suspect is affiliated with a criminal street gang?

☐ Yes ☐ No

BIAS INDICATORS (CHECK ALL THAT APPLY):

☐ Hate speech

☐ Acts/gestures

☐ Property damage

☐ Symbol used

☐ Written/electronic communication

☐ Graffiti/spray paint

☐ Other: _____

SUPPLEMENTAL HATE CRIME REPORT

Page 2 of 2

HISTORY

SUSPECT INFORMATION

Legal name (Last, First):

Other Names used (AKA):

Date of Birth	Age	Sex	Race

Relationship to Victim:

RELATIONSHIP BETWEEN SUSPECT & VICTIM

Suspect known to victim: ☐ Yes ☐ No

Nature of relationship:

Length of relationship: _____

☐ Prior reported incidents with suspect: Total # _____

Prior unreported incidents with suspect:

☐ Yes ☐ No ☐ Unknown

WEAPONS/FORCE

Weapon(s) used during incident? ☐ Yes ☐ No Type: _____

Force used during incident? ☐ Yes ☐ No Type: _____

EVIDENCE

Witnesses present during incident? ☐ Yes ☐ No Statements taken? ☐ Yes ☐ No

Evidence collected? ☐ Yes ☐ No	Recordings: ☐ Video ☐ Audio ☐ Booked
Photos taken? ☐ Yes ☐ No	Suspect identified: ☐ Field ID ☐ By photo/video ☐ Known

RESOURCES

Resources offered at scene: ☐ Yes ☐ No

☐ Marsy's Law Handout ☐ Hate Crimes Brochure ☐ Other: _____

MEDICAL

Victim	Suspect	
☐	☐	Declined medical treatment
☐	☐	Will seek own medical treatment
☐	☐	Received medical treatment
☐	☐	Injuries observed

Completed by

Date

Name/Title/ID number