

**SAN DIEGO POLICE DEPARTMENT
PROCEDURE**

DATE: April 8, 2016

NUMBER: 5.25 - HUMAN RESOURCES

SUBJECT: PROVISIONAL SWORN EMPLOYEE PROGRAM

RELATED POLICY: N/A

ORIGINATING DIVISION: HUMAN RESOURCES

NEW PROCEDURE:

PROCEDURAL CHANGE:

SUPERSEDES: NEW

I. PURPOSE

This Department procedure establishes guidelines for the organization, planning, and logistical support for the Provisional Sworn Employee Program.

II. SCOPE

This procedure applies to all sworn members of the Department.

III. BACKGROUND

To temporarily augment permanent sworn staff, the Department has identified several work assignments where utilizing retired officers as provisional retirees would make a significant contribution to meeting operational goals. San Diego Municipal Code Section 24.1001 states in part, “any person who has retired from City service may be reemployed in a position requiring special skill or knowledge for a period not to exceed 90 working days or 720 hours in any one fiscal year.”

IV. DEFINITIONS

A. Provisional Sworn Employee Program - a program that is designed to utilize the experience and expertise of recently retired sworn members of this Department in various extra help capacities. Medically retired employees are not eligible for provisional employment.

- B. Provisional Sworn Employee - a retired sworn member of the San Diego Police Department, who possesses a current basic POST certificate from a certified law enforcement academy.
 - 1. Provisional Sworn Police Officer II - full peace officer powers while on duty; may work alone. This employee will be assigned to various uniformed assignments based on Department needs.
 - 2. Provisional Sworn Detective - full peace officer powers while on duty: will be assigned to a variety of investigative assignments in accordance with Department needs. These employees will provide investigative expertise as a result of their previous Department experience.
- C. Provisional Sworn Employee Program Coordinator - the Program Coordinator provides direction, coordination, and consultation regarding the program to current and former Department members. The Program Coordinator is an active employee assigned to the Human Resources Unit.

V. **PROVISIONAL SWORN EMPLOYEE SELECTION PROCESS**

- A. Requirements
 - 1. Retirees must have retired from the San Diego Police Department in good standing. Retirees from other law enforcement agencies are not eligible for this program.
 - 2. Retirees must possess a current basic Police Officer Standards and Training (P.O.S.T.) Certificate from a certified law enforcement academy. POST Certificates expire three years from the date of retirement.
 - 3. A retiree whose P.O.S.T. certificate has expired is not eligible for reemployment in a sworn capacity. Retirees must complete the P.O.S.T. Re-Qualification Course (136 hour course) at their own expense, in order to update their P.O.S.T. certificate. To find a requalification course please visit this link: <https://www.post.ca.gov/post-requalification-course.aspx>.
 - 4. Retirees who are 59 ½ years of age or younger at the time of retirement should wait a minimum of six months between their date of separation and date of re-hire to avoid potential IRS tax penalties. Questions should be directed to a tax professional and information regarding this issue is available on the SDCERS webpage.

B. Application Process

1. Qualified retirees who are interested in becoming provisional sworn employees should contact Police Human Resources, or note their interest on the Department Exit Interview Form when they retire.
2. The Program Coordinator (Human Resources Analyst) will provide information and advise the retiree of current Department needs.
3. The Program Coordinator will maintain a list of retirees interested in provisional employment.
4. When positions are available to be filled, and a selection has been made the Program Coordinator will have the selected retiree complete a Provisional Retiree Application and direct the applicant to the Backgrounds and Recruiting Unit to begin a background investigation.

C. Background Screening

1. A San Diego Police Department Backgrounds detective will complete a background investigation of the retiree that will include a polygraph exam.
2. Retirees will also be required to complete a medical exam, psychological exam, and successfully complete the Department qualification shoot prior to starting at their designated assignment. The provisional candidate will be given five attempts to pass the Department shoot.
3. Retirees who do not clear backgrounds will be notified by telephone.
4. Completed background investigation packets are maintained in the Background Investigations Unit.

D. Selection and Placement

Retirees who are selected to be provisional sworn employees will be assigned to an available position that matches their expertise and the needs of the Department.

1. Any unit seeking approval for a provisional sworn employee position should notify the Program Coordinator. The requesting unit should craft a memo documenting the need for the provisional sworn employee in their unit.
2. Units will advise the Program Coordinator of the type of work the employee will do and the prerequisite skills they prefer each prospective employee to have. The Analyst will coordinate the selection of an available retiree based upon the specific needs of the requesting unit.

E. Reserve Officers

1. A San Diego Police Department Reserve Officer who accepts a position as a provisional retired sworn employee will need to take a leave of absence as a reserve police officer. The City prohibits employees from volunteering to perform the same work they are normally paid to perform. Reserve Officers are volunteers.
2. San Diego Police Department Reserve Officers will not need to complete a background investigation, psychological exam, or medical exam in order to be considered for employment as a Provisional Sworn Employee. Retired SDPD provisional applicants who are reserves with other law enforcement agencies will need to complete a full background investigation.

VI. PROVISIONAL SWORN EMPLOYEE PROGRAM

A. Provisional Sworn Employee Program

1. Provisional sworn employee positions should be designed to augment, not replace full-time police officer positions.
2. The Program Coordinator (Human Resources Analyst) is responsible for the overall direction and coordination of the Provisional Sworn Employee Program. Duties include:
 - a. Providing direction, coordination, and consultation regarding the program to commands and current and retired Department members;
 - b. Coordinate the recruiting, application selection and background screening process.
3. Provisional Police Officer II duties include:
 - a. Assignment to various uniformed assignments as needed.
 - b. The Department reserves the right to change assignments as needed for staffing flexibility.
4. Provisional Police Detective duties include:
 - a. Assignment to various investigative assignments.

- b. Provisional Detectives will be assigned based on investigative expertise and Department need.
- c. The Department reserves the right to change assignments as needed for staffing flexibility.

B. Injuries

- 1. Provisional Sworn Employees are covered by Worker's Compensation benefits while on duty.
- 2. Work-related injuries must be reported immediately to a supervisor.
- 3. All procedures outline in D.P. 5.01 Injury/Assault Reporting and Medical Benefits must be followed.
- 4. Although provisional sworn employees are entitled to apply for workers compensation benefits, provisional sworn employees are ineligible for 4850 benefits.

C. Flex Benefits

- 1. Provisional sworn employees continue to receive their retiree health care benefits and are not eligible for active employee Flex Benefits.
- 2. Provisional sworn employees are not eligible to accrue annual leave.

D. Pay scale/Rank

- 1. Provisional sworn employees will be appointed to the rank of Police Officer II or Police Detective (must meet minimum qualifications) regardless of their previous rank or position with the department.
- 2. Provisional sworn employees who are assigned the rank of Provisional Police Officer II will receive top step Police Officer II pay (Step E). Provisional sworn employees who are assigned the rank of Police Detective will receive top step Police Detective pay (Step E). Please refer to Department resource guide for current pay scale.

E. Scheduling/Meal Periods

- 1. Provisional sworn employees will report to the sergeant of their assigned unit to receive their regular schedule.
- 2. City of San Diego Personnel Regulations limit provisional retiree work hours to 720 hours each fiscal year, and up to eight hours per work day.

Once the maximum of 720 hours (90 days x 8 hours =720) is reached, provisional retirees may not be assigned to work or be paid for any additional hours until a new fiscal year begins. The City of San Diego fiscal year is July 1 to June 30.

3. Provisional sworn employees may not work more than forty (40) hours a week, and/or 80 hours a pay period.
4. Provisional sworn employees are hourly employees that are not covered by the Police Officer's Association MOU, and therefore do not receive a paid lunch period.
5. It is the responsibility of the provisional sworn employee to take a 30 minute or one (1) hour unpaid lunch period (as agreed upon with the supervisor) during the scheduled workday. Therefore, an 8 hour work day with a 30 minute unpaid lunch will result in a scheduled 8.5 hour work day.

F. Legal

1. Protection from Civil Action
 - a. The City will indemnify provisional sworn employees for any award of compensatory damages rendered against the provisional employee arising out of conduct within the scope of his or her duties, provided the member did not act with malice. An award of punitive damages would be the responsibility of the member.
 - b. Protection for a provisional sworn employee acting within the scope of his or her duties while on duty is the same as that given other employees.
2. Peace Officer Powers
 - a. Provisional sworn employees will have full peace officer status when on duty.
 - b. When provisional sworn employees are not on duty their rights and authority will be the same as a retired peace officer.
3. Credentials
 - a. Provisional sworn employees shall display their Department issued provisional employee identification card and badge only while on duty.

- b. Provisional sworn employees shall use their Department issued retiree identification card and retiree flat badge when they are not on duty.

4. Department Policies and Procedures

- a. Provisional sworn employees are subject to the same, rules, regulations, policies and procedures as all other Department employees.
- b. Provisional sworn employees are limited employees and do not have the same appeal rights as permanent employees.

5. Outside Employment

- a. Provisional sworn employees must report all outside employment.
- b. Provisional sworn employees shall not accept employment outside City service or participate actively in the management or operation of a business that would result in a conflict of interest or reflect criticism or discredit on the employee or the City or that would affect the employee's efficiency in the performance of their regular duties. (Refer to Department Procedure 5.12)

G. Equipment

1. Uniforms

- a. Provisional sworn employees are not eligible to receive a uniform allowance.
- b. Provisional sworn employees must provide their own uniform.
- c. Provisional sworn employees are required to maintain their uniform and equipment in accordance with Department Appearance and Grooming Standards.

2. Safety Gear

- a. Provisional sworn employees will report to Operational Support to obtain their Department issued safety equipment. Operational Support is the only office authorized to issue this equipment, subsequent to verification.
- b. Provisional sworn employees will be required to sign for and be financially responsible for issued items.

- c. At the completion of the provisional sworn employee's employment, the employee will be responsible for personally returning all items issued to them by Operational Support.
- d. Upon being hired provisional sworn employees will need to report to the San Diego Police Equipment Company to be fitted for a ballistic vest. San Diego Police Equipment is located at 8205 Ronson Road Suite #A San Diego, California 92111. Operational Support will contact the Provisional Sworn Employee after the employee is fitted to direct them on how to acquire their ballistic vest.

3. Firearms

- a. Provisional sworn employees who received title to their service weapons upon retirement shall provide their own weapon.
- b. Provisional sworn employees who do not have a service weapon titled to them from the Department will be issued a weapon from Operational Support.
- c. Weapons will be inspected by the Range Master when the provisional sworn employee reports to the range for their initial qualification shoot.

4. Badges/Identification Cards

- a. Provisional sworn employees will be issued a badge, identification card, and access card by Human Resources on the first day of employment.

H. Weapons Qualification Shoot/Annual Training

- 1. All provisional sworn employees shall qualify with the handgun and/or shotgun required for their position and each subsequent Department quarterly shoot thereafter during their tenure as required by Section 1.05 of the San Diego Police Department's Policy and Procedure Manual.
- 2. Provisional sworn employees will also participate in "Continuing Professional Training": (CPT) as required by Department Order 14-24. Provisional sworn employees must maintain an active First Aid/CPR card.
- 3. Time spent at Department training sessions is time worked and counts toward the 720 hour maximum hours that can be worked each fiscal year.

4. Provisional sworn employees will communicate their amount of training hours to the Program Coordinator.
5. Failure to maintain training and qualification requirements will be cause for provisional employment to end.

I. Email Account

1. Provisional sworn employees will be assigned an SDPD email account.
2. Provisional sworn employees shall recognize email is a form of business communication and it shall be accessed and answered in a timely manner. If the employee is having problems accessing their City of San Diego Police Department email account the employee should call the Data Systems Help Desk at (619) 531-2228 for assistance. (Refer to Department Procedure 1.01 Department Directives.)

J. Court Appearance

1. Provisional sworn employees must attend court if they are subpoenaed. (Refer to Department Procedure 1.11 Court Procedures & Subpoenas).
2. Subpoenas will be forwarded to the provisional sworn employee's assigned area command by the Subpoena Clerk for service.
3. Court call offs will be sent to the provisional sworn employee's assigned area command. On short notice call offs, the provisional sworn employee may be notified by telephone.
4. Time spent in court is work time and must be accurately recorded in OneSD.

K. Supervision

1. Provisional sworn employees are subject to the same expectations of permanent personnel.
2. Supervisors of provisional sworn employee will provide the employee with clear expectations and job duties.
3. Provisional sworn employees should notify their supervisors if they will be absent or late.
4. Employee Performance Reports are not required for Provisional personnel.

5. Citizen complaints must be investigated in the same manner as those lodged against permanent employees.

L. Use of City Vehicles

1. Provisional sworn employees may be authorized to use both marked police vehicles and unmarked vehicles.
2. All Provisional Sworn Employees must adhere to the provisions in DP 1.12, Operation of Police Department Vehicles, 1.13, Emergency Vehicle Operation, and other applicable policies and procedures.