

Personnel Files

1026.1 PURPOSE AND SCOPE

This section governs the maintenance, retention and access to peace officer personnel files in accordance with established law. It is the policy of this Department to maintain the confidentiality of peace officer personnel records pursuant to Penal Code § 832.7.

1026.2 PERSONNEL FILES DEFINED

Pursuant to Penal Code § 832.8, peace officer personnel records shall include any file maintained under an individual deputy's name relating to:

1. Personal data, including marital status, family members, educational and employment history, or similar information.
2. Medical history including medical leave of absence forms, fitness for duty examinations, workers compensation records, medical releases and all other records which reveal a Member's past, current or anticipated future medical conditions.
3. Election of Member benefits.
4. Member advancement, appraisal, or discipline.
5. Complaints, or investigations of complaints, concerning an event or transaction in which the deputy participated, or which the deputy perceived, and pertaining to the manner in which the deputy performed official duties.
6. Any other information the disclosure of which would constitute an unwarranted invasion of personal privacy.

1026.3 EMPLOYEE RECORD LOCATIONS

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

Department Personnel File: That file which is maintained in the Professional Standards Division as a permanent record of a sworn deputy's employment with this Department.

Internal Affairs Files: Those files that contain complaints of Member misconduct and all materials relating to the investigation into such allegations, regardless of disposition.

Employee Performance File: That file which is separately maintained by a Member's supervisor(s)/manager(s) within an assigned division for the purpose of completing timely performance evaluations. (Policy 1027-Employee Performance files)

1026.4 CONFIDENTIALITY OF ALL PERSONNEL FILES

Pursuant to Penal Code § 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

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set forth in Penal Code § 832.7, Evidence Code § 1043, et seq. or in accordance with applicable federal discovery laws.

1026.5 REQUESTS FOR DISCLOSURE

Only written requests for the disclosure of any information contained in any peace officer personnel record will be considered. Since the format of such requests may be strictly governed by law with specific responses required, all such requests shall be promptly brought to the attention of the Custodian of Records or other person charged with the maintenance of such records.

Upon receipt of any such request, the responsible person shall notify the affected Member(s) as soon as practicable that such a request has been made (Evidence Code § 1043(a)).

The responsible person shall further ensure that an appropriate response to the request is made in a timely manner, consistent with applicable law. In many cases, this will require assistance of approved and available legal counsel.

1026.5.1 RELEASE OF CONFIDENTIAL INFORMATION

Except as provided by this policy or pursuant to lawful process, no information contained in any confidential peace officer personnel file shall be disclosed to any unauthorized person(s) without the expressed prior consent of the involved deputy or written authorization of the Sheriff or his or her designee.

1026.6 MEMBER ACCESS TO OWN FILE

Any Member may request access to his/her own personnel file(s) during the normal business hours of the individual(s) responsible for maintaining such file(s). Any Member seeking the removal of any item from his/her personnel file shall file a written request to the Sheriff 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 (Government Code 3306.5). 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.

Members may be restricted from accessing files containing any of the following information:

1. Ongoing Internal affairs investigations to the extent that it could jeopardize or compromise the investigation pending final disposition or notice to the Member of the intent to discipline.
2. Confidential portions of Internal Affairs files which have not been sustained against the Member.

1026.7 ADVERSE COMMENTS

Adverse comments may be retained in a Employee's Department Personnel file after the Member has had the opportunity to read and initial the comment (Government Code § 3305). If a Member refuses to initial or sign an adverse comment, that fact shall be noted on the document and

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witnessed by a second supervisor. Such a refusal, however, shall not be deemed insubordination nor shall it prohibit the entry of the adverse comment into the Member's file.

Once a Member has had an opportunity to read and initial any adverse comment prior to entry into a file, the Member shall be given the opportunity to respond in writing to such adverse comment within 30 days. Any such Member response shall be attached to and retained with the original adverse comment (Government Code § 3306).

1026.8 PURGING OF FILES

Formal citizen complaints and all related files not pending litigation or other ongoing legal proceedings may be purged no sooner than five years from the underlying complaint date (Penal Code § 832.5).

All other disciplinary files and investigations of non-citizen initiated complaints not pending litigation or other ongoing legal proceedings may be purged no sooner than two years from the underlying complaint date (Government Code § 26202 and Government Code § 34090).