
Personnel Files

916.1 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.

916.2 PERSONNEL FILES DEFINED

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

- (a) Personal data, including marital status, family members, educational and employment history, or similar information.
- (b) Medical history including medical leave of absence forms, fitness for duty examinations, workers compensation records, medical releases and all other records which reveal an employee's past, current or anticipated future medical conditions.
- (c) Election of employee benefits.
- (d) Employee advancement, appraisal, or discipline.
- (e) Complaints, or investigations of complaints, concerning an event or transaction in which the officer participated, or which the officer perceived, and pertaining to the manner in which the officer performed official duties.
- (f) Any other information the disclosure of which would constitute an unwarranted invasion of personal privacy.

916.3 EMPLOYEE RECORD LOCATIONS

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

Personnel Files - Any and all files.

Department File - That file which is maintained in the office of the Chief Probation Officer as a permanent record of a sworn officer's employment with this department.

Supervisory Site File - Any file which is separately maintained internally by an employee's supervisor(s) for the purpose of completing timely performance evaluations, including any written comment concerning the conduct of an employee of this department.

Training File - Any file which documents the training records of an employee.

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

Medical File - That file which is maintained separately that exclusively contains material relating to an employee's medical history.

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916.4 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 set forth in Evidence Code § 1043, et seq. or in accordance with applicable federal discovery laws. Nothing in this section is intended to preclude review of personnel files by County Counsel, the employee's chain of command, department Human Resource staff, or other representatives of the County in connection with official business.

916.5 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 Chief, Administrative Service or other person charged with the maintenance of such records.

Upon receipt of any such request, the responsible person shall notify the affected employee(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.

All requests for disclosure, which result in access to an employee's personnel file(s), shall be logged in the corresponding file.

916.5.1 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 express consent of the involved officer or written authorization of the Chief Probation Officer or his or her 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 employee of this department may be guilty of a misdemeanor (Penal Code § 146e).

Pursuant to Penal Code § 832.7(e), the disposition of any citizen'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 officer who is the subject of the investigation (or the officer's representative) publicly makes a statement which is published in the media and which the officer (or representative) knew to be false. The disclosure of such information, if any, shall be limited to facts that refute any such false statement (Penal Code § 832.7(d)).

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916.6 EMPLOYEE ACCESS TO OWN FILE

Any employee may request access to his/her own Department personnel file(s) as referenced in section 914.3 during the normal business hours of the individual(s) responsible for maintaining such file(s). Any employee seeking the removal of any item from his/her personnel file shall file a written request to the Chief Probation Officer through the chain of command. The Department shall thereafter remove any such item if appropriate or within 30 days provide the employee 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 employee's request and the department's written response shall be retained with the contested item in the employee's personnel file.

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

- (a) Ongoing Internal affairs investigations to the extent that it could jeopardize or compromise the investigation pending final disposition or notice to the employee of the intent to discipline.
- (b) Confidential portions of Internal Affairs files which have not been sustained against the employee.

Upon request, an employee may review his/her own site file at reasonable intervals and at a time that is convenient to both the employee and the supervisor.

The supervisor will remain present while the employee reviews his/her site file, and will explain the nature of the concepts in the site file and answer any questions. Following an employee's review of his/her site file, an entry will be made on the contact log and the employee will sign the entry.

If an employee requests that items be placed in his/her site file, the supervisor will note on the item "received from employee" and the date, and will file the documents in the site file. The supervisor will subsequently determine if the information is pertinent to the performance evaluation for the applicable rating period. Such requests will also be documented on the contact log.

916.7 TYPES OF PERSONNEL FILES

916.7.1 DEPARTMENT FILE

The Department file should contain, but is not limited to, the following:

- (a) Performance evaluation reports regularly completed by appropriate supervisor and signed by the affected employee shall be permanently maintained.
- (b) Records of formal education and training (original or photocopies of available certificates, transcripts, diplomas and other documentation) and education shall be maintained.
 - 1. It shall be the responsibility of the involved employee to provide the Supervisor with evidence of completed degrees and training certificates in a timely manner.
 - 2. The Supervisor shall ensure that copies of such training records are placed in the employee's department file.
- (c) Disciplinary action:

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1. Investigations of complaints which result in a finding of not-sustained, unfounded or exonerated shall not be placed in the employee's department file, but will be separately maintained for the appropriate retention period in the internal affairs file.
- (d) Commendations shall be retained in the employee's department file, with a copy provided to the involved employee.
- (e) Personnel Action Reports reflecting assignments, promotions and other changes in the employee's employment status shall be permanently retained.
- (f) A photograph of the employee shall be permanently retained.

916.7.2 SUPERVISORY SITE FILE

The Supervisory Site File should contain, but is not limited to, the following:

- Contact log to document comments about the employee's performance
- Sample of work well done
- Samples of work needing improvement and work showing improvement
- Commendations, certificates of appreciation, awards, and other documentation of positive performance
- Records of Discussion
- Training records (past and upcoming fiscal year)
- Performance evaluation from prior review period
- Documents such as tardy slips
- Discipline served
- Employee emergency notification information
- Copy of driver's license
- Copy of CPR/First Aid certification
- Acknowledgement forms for issues equipment

Pursuant to Government Code Section 3305, no sworn officer shall have any comment adverse to his/her interest entered into his/her site file without having read and initialed the document, indicating that he/she is aware of such comment. However, such entry may be made if after reading the document, the officer refuses to sign. If the sworn officer refuses to sign, the fact will be noted on the document. Such a refusal, however, shall not be deemed insubordination. If an employee has questions concerning an adverse comment, they should address the concern through their chain of command.

Once an employee has had an opportunity to read and initial any adverse comment prior to entry into a file, the employee shall be given the opportunity to respond in writing to such adverse

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comment within 30 days (Government Code § 3306). Any such employee response shall be attached to and retained with the original adverse comment.

All rules of confidentiality and disclosure shall apply equally to the Supervisory Site file.

916.7.3 INTERNAL AFFAIRS FILE

Internal affairs files shall be maintained under the exclusive control of the Internal Affairs Unit in conjunction with the office of the Chief Probation Officer. Access to these files may only be approved by the Chief Probation Officer or the supervisor of the Internal Affairs Unit. These files shall contain:

- (a) The complete investigation of all formal complaints of employee misconduct, regardless of disposition
 - 1. Each investigation file shall be sequentially numbered within a calendar year (e.g., yy-001, yy-002).
 - 2. Each investigation file arising out of a formal citizen's complaint or a complaint involving a discriminatory harassment or hostile work environment shall be maintained no less than five years (Penal Code § 832.5(b)). Investigation files arising out of other internally generated complaints shall be maintained no less than two years (Government Code § 34090).
- (b) Investigations that result in other than a sustained finding shall be maintained for the minimum statutory period but may not be used by the Department to adversely affect an employee's career (Penal Code § 832.5 (c)).

916.7.4 TRAINING FILES

An individual training file shall be maintained by the Training Unit for each employee. Training files will contain records of all training and education mandated by law or the Department, including firearms qualifications and mandated annual proficiency requalification.

- (a) It shall be the responsibility of the involved employee to provide the Supervisor or immediate supervisor with evidence of completed training/education in a timely manner.
- (b) The Supervisor or supervisor shall ensure that copies of such training records are placed in the employee's training file.

916.7.5 MEDICAL FILE

A medical file shall be maintained separately from all other files and shall contain all documents relating to the employee's medical condition and history, including but not limited to the following:

- (a) Materials relating to medical leaves of absence.
- (b) Documents relating to workers compensation claims or receipt of short or long term disability benefits.

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- (c) Fitness for duty examinations, psychological and physical examinations, follow-up inquiries and related documents.
- (d) Medical release forms, doctor's slips and attendance records which reveal an employee's medical condition.
- (e) Any other documents or material which reveals the employee's medical history or medical condition, including past, present, or future anticipated mental, psychological, or physical limitations.

916.8 PURGING OF FILES

Generally site file entries and notes will be retained during the current performance evaluation period or for a period of one year. After the performance evaluation has been presented to and discussed with the employee, documentation such as notes, contact logs, and other related documents utilized to prepare the evaluation shall be purged. However, documentation related to substandard evaluations should be retained until all applicable appeal processes are concluded an/or the negative performance is corrected. Documentation related to any ongoing appeal process shall also be retained regardless of the evaluation rating. In addition, documentation related to ongoing litigation or pending legal proceedings shall be retained.