

SIDE LETTER AGREEMENT

BETWEEN

THE CITY OF SAN JOSE

AND

THE SAN JOSE POLICE OFFICERS' ASSOCIATION

Sergeants' Transfer Policy

The City of San Jose (City) and the San Jose Police Officers' Association (SJPOA) hereby agree to the attached changes to the Sergeants' Transfer Policy.

This Agreement shall become effective when signed by all parties below.

FOR THE CITY:

 2/28/2023

Date
Jennifer Schembri
Director of Employee Relations
Director of Human Resources

FOR THE UNION:

 02/28/2023

Date
Sean Pritchard
President, SJPOA

 2/28/2023

Date
Paul Joseph
Assistant Chief of Police

Sergeants' Transfer Policy

BACKGROUND

To provide the most effective and efficient service to the public, the San Jose Police Department must utilize to the fullest, the talents and abilities of all Sergeants. To this end, it has established this policy to regulate the transfer of sergeants between assignments throughout the Department. The Department has formed an advisory committee, known as the "Personnel Advisory Committee" (PAC) to assist in policy development which shall be beneficial to the Department and to the individual Sergeant. The PAC does not have the power to alter Department policy.

The purpose of this document is to establish a "Sergeants' Transfer Policy" for the rank of Sergeant. The "Sergeants' Transfer Policy" affects the San Jose Police Department's four (4) Bureaus (BFO/BOI/BOA/BTS) as well as assignments which fall under the purview of the Office of the Chief of Police. This policy shall deal with "Inter-Bureau Transfers" only and shall not involve specific units. "Intra-Bureau Transfers" shall be established by the individual Bureau Chiefs; however, sections in this policy do discuss specifics regarding the total amount of time that an individual sergeant can spend out of the BFO Patrol function, including situations where sergeants have either voluntarily or involuntarily been the subject of an "Intra-Bureau" transfer.

The intended effective date of this revised policy will be at the BFO shift change, September of 2016.

PROCEDURE

ELIMINATION OF EXISTING SIX (6) YEAR LID

Effective immediately, all sergeants that are currently assigned outside the BFO Patrol function will abide by the guidelines as set forth in this policy. Accordingly, the following will take effect upon adoption of this policy or at a timetable as set forth by the Chief of Police:

- All sergeants who are currently working in an assignment outside of BFO Patrol will return to BFO Patrol in accordance with the newly established Unit LIDS as specified in STP – 1003.1
- If a sergeant has been out of BFO Patrol the same number of years or longer than the LID in the assignment they are currently working, he/she will be reassigned back to BFO Patrol at the following shift change

ORDER

STP-1002: RECENTLY PROMOTED SERGEANTS

Recently promoted Sergeants shall complete twelve (12) consecutive months in a Bureau of

Sergeants' Transfer Policy

Field Operations (BFO) Patrol assignment before becoming eligible to be assigned to a non-BFO Patrol assignment.

STP-1003: BUREAU TIME REQUIREMENT

Every Sergeant must complete a minimum of twelve (12) consecutive months in a BFO/Patrol Assignment after a pre-designated number of years of Non-Patrol Assignment(s). The pre-designated number of years that corresponds to each specific unit can be seen in STP – 1003.1. On or before the designated anniversary of the Sergeant's last day of service, rounded up or down to the nearest shift change in the BFO, the Sergeant shall be transferred back to the BFO/Patrol Assignment. Any Sergeant transferred to the BFO, or who voluntarily returns to the BFO/Patrol Assignment prior to the completion of his/her designated number of years in a non-BFO/Patrol assignment, shall remain in the BFO/Patrol Assignment for a period of twelve (12) consecutive months. Sergeants may apply for Non-BFO/Patrol Assignments prior to the expiration of the twelve (12) month period, but shall NOT be transferred prior to the completion of the twelve (12) months.

STP-1003.1: TRANSFERRING FROM A BFO PATROL ASSIGNMENT TO A NON-BFO PATROL ASSIGNMENT

When a sergeant transfers from a BFO Patrol assignment to a Non-BFO Patrol assignment, the amount of time that sergeant can spend out of the BFO Patrol function will vary depending upon the specific unit which they are being assigned. The maximum duration a sergeant will be able to spend out of a BFO Patrol assignment will be four (4) years, unless otherwise noted. Below is the list of assignments whose LIDS are four (4) or more years. All other supervisory assignments not on this list will have a maximum duration of three (3) years before that assigned sergeant must return to a BFO Patrol assignment:

Office of the Chief

Crisis Management Unit:	4 years
Internal Affairs Unit:	2 years (this assignment will not count against non-BFO Patrol assignment time)
Criminal Intelligence Unit:	4 years

Bureau of Field Operations

MERGE:	4 years
Bomb Unit:	4 years
Helicopter Unit:	4 years (unless Sergeant is a certified pilot, then same LID per OTP)
Motor Unit:	5 years

Sergeants' Transfer Policy

Bureau of Investigations

Homicide Unit:	4 years
Crime Scene Unit:	4 years
Covert Response Unit:	4 years
Sexual Assaults Unit – ICAC Detail:	4 years

Bureau of Administration

Range:	4 years
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Note: A sergeant's LID begins the day he/she is transferred from a BFO Patrol assignment to a Non-BFO Patrol assignment, regardless of the work status of that sergeant at the time of transfer (to include but not limited to: TDY, injured, sick, modified or full duty).

STP-1003.2: TRANSFERRING FROM ONE NON-BFO ASSIGNMENT TO ANOTHER NON-BFO ASSIGNMENT

When a sergeant transfers, either voluntarily or involuntarily, from one non-BFO Patrol assignment to a different non-BFO Patrol assignment, he/she will inherit the LID that corresponds with the new assignment.

Under no circumstances does a sergeant's total amount of time outside of a BFO Patrol assignment pause, stop or reset (Exception: see STP 1003.3 – Extending Maximum Duration). Transfers from one non-BFO Patrol assignment to another non-BFO Patrol assignment do NOT reset that sergeant's total amount of time allowed out of a BFO-Patrol assignment.

STP-1003.3: MAXIMUM DURATION OF ASSIGNMENT

Each non-BFO Patrol assignment shall have an established maximum assignment duration ("LIDS") as provided in STP-1003.1. Assignment durations that expire three (3) or fewer months from shift change shall be deemed to expire at the time of said shift change.

STP-1003.4: EXTENDING MAXIMUM DURATION

Extension of maximum assignment duration shall be allowed at the discretion of the Assistant Chief of Police after recommendation from the Personnel Advisory Committee (PAC). Requests for extensions and the cause(s) necessitating the request will be submitted by the appropriate Unit Commander through the normal "Chain of Command" to the Assistant Chief of Police.

STP-1003.5: EVALUATION

The established "Performance Standards" shall be used as the basis for evaluation. Sergeants assigned to a non-BFO Patrol assignment shall be evaluated at least once during the first six (6) months of that assignment. Should the Unit Commander, with concurrence from his/her

Sergeants' Transfer Policy

Chain of Command, feel that individual sergeant is performing at an overall level below the established "Meets Standard" requirements, the Bureau Chief from the affected Bureau has the option to transfer that sergeant to another assignment within his/her Bureau or back to the Bureau of Field Operations, Patrol Division.

Unit Commanders MUST indicate this section (STP-1003.5) in his/her Unit's job Announcement.

STP-1003.6: REQUEST FOR WAIVER

Upon reaching 50 years of age and having completed 25 years of active service or 55 years of age and having completed 20 years of active service, any sworn member of the Department serving in the classification of Sergeant may submit a written request to the Assistant Chief of Police for consideration or 'waiver of required patrol duty time.' An Administrative decision shall be final and not subject to further administrative review. If the Assistant Chief of Police approves this one time waiver, the Sergeant is still subject to the maximum assignment duration of the specialized unit by which he or she is selected. This shall not extend the established assignment time, 'lids', as identified in the Transfer policy, nor serve as a waiver of any entry or testing requirements.

STP-1003.7: RETURN TO SAME UNIT & SUNSET CLAUSE

All sworn personnel covered by this Policy shall be excluded from returning to a previously assigned 'Specialized Unit' for a period of three (3) years from the 'date of exit' from that 'Specialized Assignment.'

STP-1005: NOTICE OF VACANCIES

When a potential or actual vacancy occurs in a non-BFO Patrol Assignment (including special operations). Unit Commander or his/her designee from the unit where the potential or actual vacancy has occurred will post a notice through the Personnel Unit, identifying the vacancy. The posting will be in place for a period of no less than two (2) weeks prior to filling the vacancy.

STP-1008: GRIEVANCE PROCEDURE

Should a dispute arise under this Policy, the procedure for grieving a dispute shall be per Article 25 (Grievance Procedure) of the "Memorandum of Agreement" utilizing Section 25.4. If the POA is not satisfied with decision of the "Municipal Employee Relations Officer" (MERO), the appropriate Representative of the POA may appeal the grievance utilizing Section 25.5.

STP-1009: ADMINISTRATIVE TRANSFERS

This Policy does not preclude the right of Management to make "Administrative Transfers"

San Jose Police Department

Sergeants' Transfer Policy

(the traditional right of the Chief of Police to assign Sergeants “for the good of the

Sergeants' Transfer Policy

Department"). If the Chief administratively assigns a Sergeant "for the good of the Department," the employee may request an explanation of the denial from the Assistant Chief of Police or the Assistant Chief's designee. Such request shall be made to the Assistant Chief or his/her specifically designated representative within five (5) working days following the denial. In the event the matter is not resolved by the Assistant Chief or his/her designee, the employee may within five (5) working days of the receipt of the Assistant Chief's decision appeal to the Director of Employee Relations by submitting a written request for review. Such request shall be in writing and shall include the reason or reasons why the employee is not satisfied with the decisions previously rendered. Within ten (10) working days of the receipt of such written request for review, the Director of Employee Relations or his/her designated representative shall notify the employee of the results of such review. The decision of the Director of Employee Relations or his/her designated representative shall be final and binding.

STP-1010: SERGEANT SELECTION/TRANSFER PROCESS

Sergeants eligible to leave a Patrol assignment for a non-BFO Patrol assignment (STP-1003) shall submit the following documents to the non-BFO Patrol Unit Commander where the sergeant vacancy will/does exist:

- Memorandum stating interest in the position – memorandum to include, at minimum, the following:
 - Applicant's name and contact telephone number(s)
 - Names and contact number(s) for current and past two (2) supervisors

Sergeants who submit their completed memorandum shall be informed by the Unit Commander of the time/date for an interview. The interview will be conducted in person by the Unit Commander.

- Selection of the sergeant for that Unit will be made by the Unit Commander with concurrence from his/her Chain of Command.

Upon selecting a sergeant for that vacancy, the Unit Commander will contact that individual as well as each of the non-selected candidates. Non-selects are encouraged to contact the Unit Commander for feedback.

All job assignments outside of BFO Patrol shall have a six (6) month probationary period. This probationary period SHALL be documented in each individual Job Announcement (refer to STP 1003.5 – Evaluations).