



DEPARTMENT OF PUBLIC SAFETY POLICIES & PROCEDURES



POLICY NUMBER	
PRS:13	
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SUBJECT: FITNESS-FOR-DUTY EVALUATIONS

1.0 PURPOSE

The purpose of this policy is to provide Department of Public Safety commissioned supervisors with basic guidelines relating to referrals for fitness-for-duty evaluations. Such evaluations are necessary for the safety and welfare of the public and commissioned employees. This policy establishes the procedure to be utilized when a fitness-for-duty evaluation is being requested and/or mandated.

2.0 POLICY

It is the policy of the Department of Public Safety to provide a mechanism for commissioned supervisors to evaluate an employee's behavior and to make recommendations for fitness-for-duty evaluations based on their observations. These proceedings are to be held strictly confidential.

3.0 APPLICABILITY

This policy applies to all commissioned personnel of the Department of Public Safety.

4.0 REFERENCES

**IACP Model Policies - Police Psychological Services Section
California Police Employees Associations Psychological Services Committee
CALEA Chapter 22, Compensation, Benefits, and Conditions of Work**

5.0 DEFINITIONS

- A. Chief** – Chief of the New Mexico State Police.
- B. DPS** – Department of Public Safety.
- C. Departmental Psychologist** – Person under contract with the Department to provide counseling and pre-fitness-for-duty evaluations.
- D. Evaluator** – Person under contract with the Department to conduct mandatory fitness-for-duty evaluations.

6.0 PROCEDURE

- A. Basis for Referrals (Fitness-for-Duty Evaluations):** To assist in determining the continuing mental fitness of commissioned personnel to carry out their essential duties, all supervisors should be alert to any indication that an employee may not be

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emotionally or mentally fit. Such indications may include, but are not limited to, the following or a combination of the following:

1. One or more complaints relating to the employee's conduct, whether initiated internally or externally; particularly complaints about the unnecessary use of force, inappropriate verbal conduct, or conduct indicating an inability to exercise self-control and self-discipline. Complaints should be examined on a case-by-case basis, for their relevance to this policy.
2. An abrupt negative change in customary behavior toward an inability to perform essential functions of the position.
3. Irrational verbal conduct or behaviors, including delusions or hallucinations.
4. Suicidal statements, behaviors, or personal expressions of mental instability.
5. Unexplained and excessive tiredness or hyperactivity.
6. Dramatic change in eating patterns resulting in sudden weight loss or gain or diagnosis of life threatening eating disorder.
7. Change in behavioral patterns including inattention to personal hygiene and health and inappropriate use of alcohol, medications or other drugs, including symptoms of illegal drug use.
8. Memory loss.
9. Impatience or impulsiveness, especially with a loss of temper.
10. A pattern of conduct indicating a possible inability or decrease in ability to defuse tense situations, a tendency to escalate such situations or create confrontations.
11. Unexplained and inappropriate excessive tardiness or absenteeism.
12. Substance abuse and other addictions.
13. Medical or physical conditions which impair the ability of an employee to perform their assigned duties.
14. Use of medications and/or side effects of those medications which negatively impacts an employee's ability to perform their assigned duties.
15. Any other factor or combination of factors which causes a supervisor to reasonably suspect that a fitness-for-duty evaluation may be necessary.

NOTE: It is important to understand that fitness-for-duty evaluations shall not be utilized as a substitute for discipline or to protect the decision maker when deciding disciplinary measures.

B. Reporting

1. Any supervisor observing circumstances indicating that the emotional or mental fitness of an employee may be in question should meet with the employee, if doing so will not aggravate the situation. If the meeting does not relieve the supervisor's

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concern, or if no meeting is conducted, the supervisor shall contact his/her district/section/division commander and apprise them of his/her concerns along with correspondence outlining the facts in the case. Upon receipt of any such documentation, the district/section/division commander or designee shall notify the Office of the Chief.

The district/section/division commander or designee may conduct a meeting with the affected employee. The results of the meeting shall be documented and the correspondence forwarded with an opinion on the matter, along with a request for fitness-for-duty evaluation, if appropriate.

2. When aggravating circumstances exist, such as when an employee's conduct immediately or directly threatens safety, a supervisor may take immediate action to relieve the employee of his/her duties pending further evaluation. The district/section/division commander or designee shall be immediately notified of these circumstances and it is their responsibility to notify the Office of the Chief. At the discretion of the Office of the Chief, the employee may be relieved of all official duties pending further evaluation. The employee may also be ordered to surrender departmental equipment.
3. Once the recommendation for a fitness-for-duty evaluation is received by the Office of the Chief, the chief or his/her designee will determine whether or not a fitness-for-duty evaluation is necessary. If the chief or his/her designee concludes an examination is warranted, the employee will receive a mandatory referral to the departmental psychologist for a pre-fitness-for-duty evaluation.
4. The departmental psychologist will conduct a pre-fitness-for-duty evaluation to recommend whether or not to proceed with a fitness-for-duty evaluation. If he/she believes the evaluation is necessary, the chief will be notified and will schedule the fitness-for-duty evaluation. If the departmental psychologist does not believe the fitness-for-duty evaluation is necessary, he/she will notify the chief with recommendations for addressing the employee's issues. The chief will then take appropriate action, based on the psychologist's recommendations up to and including requiring the employee to comply with the recommendations of the department psychologist as well as attend mandatory meetings with the employee's psychologist, who will confer with the department psychologist to provide a weekly, or as frequently as agreed upon between the chief and the department psychologist, prognosis to the chief regarding the employee's condition. The chief will determine whether or not the employee will remain on-duty or on administrative status during the course of treatment.
5. Fitness-for-duty evaluations will only be conducted by a licensed psychologist with a doctoral degree in psychology and at least five years of post-graduate experience in the diagnosis and treatment of mental disorders. The evaluator must also possess training and background in the following areas:
 - a. Psychological test interpretation and law enforcement psychological assessment techniques.
 - b. The literature in police psychology and essential job functions as a police employee.

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- c. Case law and other legal requirements related to employment and personnel practices.
 - d. The evaluator must also have devoted a portion of his/her practice to police psychology or worked under the supervision of a police psychologist and be prepared, by training or experience, to qualify as an expert in any proceeding that might arise from any fitness-for-duty evaluation.
6. The fitness-for-duty evaluator will only determine whether or not the employee can perform the duties as a police officer. In the event the evaluator determines the employee is not currently fit to perform the duties of a police employee, but could do so with further treatment and rehabilitation, those findings and recommendations will be forwarded to the chief for review. The evaluator will provide an estimated time frame regarding the length of time it will/should take the employee to achieve fitness, and will also provide specific/realistic recommendations (treatment plan) regarding changes in work environment and requirements as well as the type of services/treatment the employee needs to achieve fitness.

The chief will forward the report, with recommendations, to the department psychologist who will also evaluate the findings. The departmental psychologist will consult with the chief and evaluator to determine the best treatment options for the employee. Once determined, the chief shall mandate the employee attend treatment with a licensed psychologist. The department psychologist will regularly meet with the employee, confer with the employee's psychologist, consult with the employee's supervisors, if appropriate, and provide the chief with regular progress reports regarding the employee's prognosis and compliance with the treatment plan. If the employee does or does not make sufficient progress in the allotted time frame or fails to comply with the treatment plan, this information will be forwarded to the evaluator who can evaluate further and/or make a final determination of the employee's fitness for duty.

The chief will determine whether or not the employee will remain on duty or on administrative status during the course of treatment. The chief may also choose to share certain basic information on the employee's fitness/progress with the affected district/section/division commander.

7. If the evaluator determines the employee is not fit for duty, he/she will prepare a written report of findings for the chief who will take appropriate actions, up to and including termination.

7.0 ATTACHMENTS

NONE

8.0 APPROVAL

APPROVED BY: _____ s/ John Denko
DPS Cabinet Secretary

DATE: _____ 06/08/2007