

Regular Council Meeting

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CITY OF FRESNO
CITY CLERK'S OFFICE

FRESNO CITY COUNCIL



Supplement Packet

ITEM(S)

1-N (ID 23-1275)

***Approve a Side Letter of Agreement with the Fresno Police Officers Association (FPOA), for Unit 4 - Non-Management Police, regarding Court Appearances (Subject to Mayor's Veto)

Contents of Supplement: Side Letter of Agreement between the City and FPOA: Court Appearances - Redline and Side Letter of Agreement between the City and FPOA: Court Appearances - Final

Supplemental Information:

Any agenda related public documents received and distributed to a majority of the City Council after the Agenda Packet is printed are included in Supplemental Packets. Supplemental Packets are produced as needed. The Supplemental Packet is available for public inspection in the City Clerk's Office, 2600 Fresno Street, during normal business hours (main location pursuant to the Brown Act, G.C. 54957.5(2)). In addition, Supplemental Packets are available for public review at the City Council meeting in the City Council Chambers, 2600 Fresno Street. Supplemental Packets are also available on-line on the City Clerk's website.

Americans with Disabilities Act (ADA):

The meeting room is accessible to the physically disabled, and the services of a translator can be made available. Requests for additional accommodations for the disabled, sign language interpreters, assistive listening devices, or translators should be made one week prior to the meeting. Please call City Clerk's Office at 621-7650. Please keep the doorways, aisles and wheelchair seating areas open and accessible. If you need assistance with seating because of a disability, please see Security.

**Side Letter of Agreement
Between
City of Fresno
and
Fresno Police Officers Association**

Court Appearances

The City of Fresno and the Fresno Police Officers Association (FPOA), representing Unit 4, Non-Supervisory Police, have met and conferred, and have agreed under the terms of this Agreement to replace Section 7.8 in its entirety, as follows:

7.8 COURT APPEARANCES

Notwithstanding the provisions of FMC Section 3-117, the following rules shall apply to court appearances. Members qualifying under Subsection 7.8.01 below are not eligible for qualifying under Subsection 7.8.02 below, and members qualifying under Subsection 7.8.02 below are not eligible for qualifying under Subsection 7.8.01.

7.8.01 Scheduled Days Off – If a member is approved to be off work and receives a departmental notice or subpoena requiring a court appearance on the member's regularly scheduled day off, ~~or on~~ a vacation day, or on a day off on CTO, or on a day off on a holiday, or on a day off AWS, which has been approved prior to notice and/or the member's receipt of a departmental notice or subpoena, and the member has not been released by the Court Liaison Office (CLO) by 1700 hours on the day prior to the court appearance from such departmental notice or subpoena vis-a-vis an electronic notification system, the member shall be considered to be on court appearance standby duty, and shall be compensated under Subsection 7.8.01(1) below.

- (1) Pay for court appearance standby duty, as described above, shall be one hour at one and one-half (1 ½) times the member's base rate of pay. A member may elect to take this as CTO in accordance with the provisions of Section 7.3.03 and Section 7.3.08.
- (2) Time spent on court appearance standby duty shall not be considered hours worked.
- (3) In the event a member is approved to be off work on a regularly scheduled day off, on a vacation day, on CTO, on a holiday, or on a day off AWS, prior to the department's receipt of notice of a subpoena for court appearance, and the member, who is on court appearance standby duty at home, appears in court on a scheduled day off, or on a vacation, or on a day off on CTO, or on a day off on holiday, or on a day off via AWS, which has been approved prior to notice and/or the member's receipt of a departmental notice or

~~subpoena~~, the member shall also be compensated for a minimum of four (4) hours at one and one-half times (1 ½) the member's base rate of pay, or at one and one-half times (1 ½) the member's base rate of pay for the actual time of the appearance, whichever is greater. This compensable time starts ~~from~~ at the time the member reports to court at the directed appearance time ~~through completion of the appearance~~. In the event a member is advised of their need to immediately respond to court ("ASAP Go"), this compensable time starts at the time the member confirms with CLO the receipt of their "Go."

(4) If a member is called off (canceled) within two (2) hours of the member's directed appearance time, the member will receive the minimum of four (4) hours at one and one-half (1 ½) times the member's base rate of pay. If a member is called off (canceled) more than two (2) hours prior to the member's directed appearance time, the member will not be compensated beyond the court appearance standby pay.

7.8.02 Scheduled Work Day - If a member receives a departmental notice or subpoena requiring a court appearance on a regular day of work outside their shift hours, and the member has not been released by the Court Liaison Office by 1700 hours on the day prior to the court appearance from such departmental notice or subpoena vis-à-vis via an electronic notification system, the member shall be compensated under this Section.

(1) Pay for court appearance standby ~~duty on a work day~~, as described above, shall be one (1) hour at one and one-half (1 ½) times the member's base rate of pay ~~for being on court stand-by~~. A member may elect to take this as CTO in accordance with the provisions of Section 7.3.03 and Section 7.3.08.

(2) Time spent on court appearance standby duty shall not be considered hours actually worked.

(23) In the event a member who is on court appearance standby duty prior to or after their shift is required to appear in court on a scheduled work day, the member shall also be compensated for a minimum of three (3) hours at one and one half (1 ½) times the member's base rate of pay, or at one and one-half (1 ½) times the member's base rate of pay for the actual time of the appearance, whichever is greater. This compensable time starts from the time the member is ordered to report to the court through completion of at the directed appearance time. In the event a member is advised of an "ASAP Go,"

this compensable time starts at the time the member confirms with CLO the receipt of their "Go."

(4) If a member is called off (canceled) within two (2) hours of the member's directed appearance time, the member will receive the minimum of three (3) hours at one and one-half (1 ½) times the member's base rate of pay. If a member is called off (canceled) more than two (2) hours prior to the member's directed appearance time, the member will not be compensated beyond the court appearance standby pay.

- 7.8.03 Where a member's appearance extends beyond the three (3) or four (4) hour minimum, the member shall be paid one and one-half times (1 ½) the member's base rate of pay for the actual time of the appearance.
- 7.8.04 Electronic Hearings – In the event a member's appearance is required via telephone or other means of electronic communication in any judicial or administrative proceeding as a witness, the member shall be compensated at one (1) hour at one and one half (1 ½) times the member's base rate of pay, or at one and one half (1 ½) times the member's base rate of pay for the actual time of the appearance, whichever is greater.
- 7.8.05 The provisions of Subsections 7.8.01 and 7.8.02 supra, shall also apply to members required to appear in any judicial or administrative proceeding as a witness pursuant to subpoena, court order, or request of the District Attorney. This provision shall apply to all judicial proceedings (civil, criminal, or administrative) and Civil Service proceedings in which a member's presence is ordered, directed, or requested because of their employment as a Police Officer.
- 7.8.06 Where lateral officers receive a subpoena requiring a court appearance on behalf of the member's prior agency for work related duties, the department will adjust the member's work hours and/or days off, or at the department's discretion, pay overtime so the member can attend to the court process on duty. The member will be responsible for their travel expenses.
- 7.8.07 ~~The department and Association will continue to meet as needed to resolve concerns involving CLO program processes and applications.~~ In the event a member is substituting as a result of AWS on a regularly scheduled day off/vacation/holiday/CTO, the substituting member shall be compensated in accordance with compensation afforded under Section

7.8 for a member required to make a court appearance on their regularly scheduled work day.

7.8.08 ~~In the event a member is off on a regular day of work as a result of AWS, and is required to make a court appearance, the member shall be compensated for court time in accordance with Section 7.8 for a member required to make a court appearance on a regular day of work. Conversely, in the event a member is substituting as a result of AWS on a regularly scheduled day off/vacation/holiday/CTO, the substituting member shall be compensated in accordance with compensation afforded under Section 7.8 for a member required to make a court appearance on their scheduled day off.~~ The department and Association will continue to meet as needed to resolve concerns involving CLO program processes and applications.

This Agreement shall be effective on the date below until the implementation of a successor MOU. This subject will be addressed in the successor MOU.

FOR THE FRESNO POLICE
OFFICERS ASSOCIATION:

FOR THE CITY OF FRESNO:

BRANDON WIEMILLER
FPOA President

TJ MILLER
Interim Director of Personnel Services

Date: _____

APPROVED AS TO FORM
CITY ATTORNEY'S OFFICE

BY: _____
Chief Assistant City Attorney

**Side Letter of Agreement
Between
City of Fresno
and
Fresno Police Officers Association**

Court Appearances

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7.8.01 Scheduled Days Off – If a member receives a departmental notice or subpoena requiring a court appearance on the member's regularly scheduled day off, or on a vacation, or on a day off on CTO, or on a day off on holiday, or on a day off AWS which has been approved prior to notice and/or the member's receipt of a departmental notice or subpoena, and the member has not been released by the Court Liaison Office (CLO) by 1700 hours on the day prior to the court appearance from such departmental notice or subpoena vis-a-vis an electronic notification system, the member shall be considered to be on court appearance standby duty, and shall be compensated under Subsection 7.8.01(1) below.

- (1) Pay for court appearance standby duty, as described above, shall be one hour at one and one-half (1 ½) times the member's base rate of pay. A member may elect to take this as CTO in accordance with the provisions of Section 7.3.03 and Section 7.3.08.
- (2) Time spent on court appearance standby duty shall not be considered hours worked.
- (3) In the event a member appears in court on a scheduled day off, or on a vacation, or on a day off on CTO, or on a day off on holiday, or on a day off via AWS, which has been approved prior to notice and/or the member's receipt of a departmental notice or subpoena, the member shall also be compensated for a minimum of four (4) hours at one and one-half times (1 ½) the member's base rate of pay, or at one and one-half times (1 ½) the member's base rate of pay for the actual time of the appearance, whichever is greater. This

compensable time starts at the time the member reports to court at the directed appearance time. In the event a member is advised of their need to immediately respond to court ("ASAP Go"), this compensable time starts at the time the member confirms with CLO the receipt of their "Go."

- (4) If a member is called off (canceled) within two (2) hours of the member's directed appearance time, the member will receive the minimum of four (4) hours at one and one-half ($1 \frac{1}{2}$) times the member's base rate of pay. If a member is called off (canceled) more than two (2) hours prior to the member's directed appearance time, the member will not be compensated beyond the court appearance standby pay.

7.8.02 Scheduled Work Day - If a member receives a departmental notice or subpoena requiring a court appearance on a regular day of work outside their shift hours, and the member has not been released by the Court Liaison Office by 1700 hours on the day prior to the court appearance from such departmental notice or subpoena vis-à-vis via an electronic notification system, the member shall be compensated under this Section.

- (1) Pay for court appearance standby, as described above, shall be one (1) hour at one and one-half ($1 \frac{1}{2}$) times the member's base rate of pay. A member may elect to take this as CTO in accordance with the provisions of Section 7.3.03 and Section 7.3.08.
- (2) Time spent on court appearance standby duty shall not be considered hours worked.
- (3) In the event a member appears in court on a scheduled work day, the member shall also be compensated for a minimum of three (3) hours at one and one half ($1 \frac{1}{2}$) times the member's base rate of pay, or at one and one-half ($1 \frac{1}{2}$) times the member's base rate of pay for the actual time of the appearance, whichever is greater. This compensable time starts from the time the member reports to court at the directed appearance time. In the event a member is advised of an "ASAP Go," this compensable time starts at the time the member confirms with CLO the receipt of their "Go."
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the member will not be compensated beyond the court appearance standby pay.

- 7.8.03 Where a member's appearance extends beyond the three (3) or four (4) hour minimum, the member shall be paid one and one-half times (1 ½) the member's base rate of pay for the actual time of the appearance.
- 7.8.04 Electronic Hearings – In the event a member's appearance is required via telephone or other means of electronic communication in any judicial or administrative proceeding as a witness, the member shall be compensated at one (1) hour at one and one half (1 ½) times the member's base rate of pay, or at one and one half (1 ½) times the member's base rate of pay for the actual time of the appearance, whichever is greater.
- 7.8.05 The provisions of Subsections 7.8.01 and 7.8.02 supra, shall also apply to members required to appear in any judicial or administrative proceeding as a witness pursuant to subpoena, court order, or request of the District Attorney. This provision shall apply to all judicial proceedings (civil, criminal, or administrative) and Civil Service proceedings in which a member's presence is ordered, directed, or requested because of their employment as a Police Officer.
- 7.8.06 Where lateral officers receive a subpoena requiring a court appearance on behalf of the member's prior agency for work related duties, the department will adjust the member's work hours and/or days off, or at the department's discretion, pay overtime so the member can attend to the court process on duty. The member will be responsible for their travel expenses.
- 7.8.07 In the event a member is substituting as a result of AWS on a regularly scheduled day off/vacation/holiday/CTO, the substituting member shall be compensated in accordance with compensation afforded under Section 7.8 for a member required to make a court appearance on their regularly scheduled work day.
- 7.8.08 The department and Association will continue to meet as needed to resolve concerns involving CLO program processes and applications.

This Agreement shall be effective on the date below until the implementation of a successor MOU. This subject will be addressed in the successor MOU.

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OFFICERS ASSOCIATION:

FOR THE CITY OF FRESNO:

BRANDON WIEMILLER
FPOA President

TJ MILLER
Interim Director of Personnel Services

Date: _____

APPROVED AS TO FORM
CITY ATTORNEY'S OFFICE

BY: 

Chief Assistant City Attorney