

## **SANTA CLARA POLICE DEPARTMENT GENERAL ORDER 26.4**

### **NEPOTISM AND CONFLICTS OF INTEREST**

**ISSUED APRIL 2006**

#### **26.4.1 Policy**

The City of Santa Clara and the Santa Clara Police Department recognizes the rights of its employees to become involved in personal relationships with members of the Department and/or others who do not work for the Department. The Department will not discriminate in the hiring or promoting of employees who are in a personal relationship. However, it is the policy of the Santa Clara Police Department to ensure that employees carry out their duties with impartiality and fairness so that public and organizational confidence in the actions of our employees is maintained.

It is important for all personnel of the department to recognize that the appearance of a conflict of interest can be as damaging to the reputation of the individual and the department as an actual conflict of interest. It is important that we remain vigilant of perceptions and that we eliminate the appearance of impropriety. To ensure flexibility and fundamental fairness each situation will be reviewed on a case-by-case basis.

- No relative of any Department member shall be appointed to, or placed in any position where one relative would be subject to direct supervision or evaluation by another relative. Nor shall any relative be responsible for recommending discipline for another relative.
- Employees shall not have personal, financial or business associations or dealings with persons who they know or reasonably suspect are racketeers, sexual offenders, felons, suspected felons, persons under criminal investigation or indictment, or who have a reputation in the community for present felonious involvement or criminal behavior, except as necessary in the performance of official duties, or if they are immediate family members.

#### **26.4.2 Purpose**

The purpose of this directive is to establish the Department's policy on relationships between Department employees and/or citizens, which give rise to an actual, potential or perceived conflict of interest between professional responsibilities and personal relationships and/or create an adverse impact on Departmental supervision, productivity, safety, security, or morale.

When a supervisor becomes involved in a personal relationship with another employee over whom that supervisor has the power to influence salary, promotions, assignments, or disciplinary matters, the relationship may result in overt or covert favoritism or perceptions of favoritism that adversely affect the productivity of the work unit. It can also create an environment where the supervisor can lose the respect and credibility of subordinates, thus reducing the supervisor's effectiveness. Supervisors must be held accountable for behavior affecting the workplace that stem from these types of relationships between employees.

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### 26.4.3 Procedures

In the event that two employees of the Santa Clara Police Department marry and/or cohabitate, and at the time of their marriage or cohabitation, are in conflict with the above policy, one of the employees may be transferred to another assignment, within the same classification, as determined by the Department. The Department, to the greatest extent possible, will try to accommodate employees and permit the affected employees to maintain existing work hours and days off.

### 26.4.4 Definitions

Business relationship: For purposes of this policy, it is a relationship between two or more people that is based on a financial agreement, or business partnership.

Conflict of Interest: It is not feasible to identify every personal relationship that gives rise to an actual or potential conflict of interest between a Department member's professional duties and responsibilities, and his or her personal interests. Generally, however, an actual or potential conflict of interest shall be considered to exist when there is a reasonable concern that the Department member may take action, fail to take action, make a decision or fail to make a decision based, in whole or in part, on his or her personal relationship.

Field Training Officer: Any member of the Department who is assigned an active role in the training of a recruit police officer or civilian police employee.

Financial relationship: Any relationship between two or more persons where any party involved has any type of financial obligation responsibility to another.

Personal Relationship: For purposes of this policy, it is any relationship that extends beyond simple friendship, to include but not limited to marriage, blood, dating, cohabitation, or other intimate relationship. These relationships include a member's spouse, ex-spouse, significant other, child, stepchild, parent, stepparent, grandparent, grandchild, sibling or child of the member's spouse.

Recruit: An officer who is assigned to the FTO Program and is under the direct supervision of a Field Training Officer for the purposes of training and evaluation.

Relative: Means a Department member's spouse, significant other, child, stepchild, parent, stepparent, grandparent, grandchild, or sibling of child of the member's spouse.

Significant Other or Domestic Partner: Are individuals who are living together and sharing a common domestic life together but are not joined in any type of legal partnership, marriage or union.

Subordinate: A person who is answerable to another based on job classification or who based on assignment or training requirements is actively being evaluated by another member of the Department.

Supervisor: A person who has authority, direct or indirect, over another by virtue of his or her rank, job classification, or training assignment.

Trainee: A member of the Department who is new to the Department or a position within the Department, and who is under the direct supervision of a trainer for the purposes of training and evaluation.

Trainer: Any member of the Department who is responsible for training and evaluating employees who are new to the Department or new to a position within the Department that is subject to a structured training and evaluation process.

#### **26.4.5 Restriction of Assignment and Duties**

##### Supervisor/Subordinate:

- An employee shall not directly supervise, nor be directly supervised by, another employee with whom they have a personal relationship.
- An employee shall not recommend advancement, contribute to a performance appraisal or take part in decisions regarding the assignment or placement of another employee with whom they have a personal relationship.
- Employees who have a personal relationship may not work on the same patrol watch. They may work in the same work group (such as Investigations, Traffic, etc.) provided the above listed restrictions are not violated.

##### Field Training Officer/Trainer and Trainee:

- The relationship between the Field Training Officer or Trainer and the probationary trainee is defined as a supervisory-subordinate relationship for purposes of this policy. This relationship extends past the duration of actual training and shall be deemed ongoing until such time the employee passes his or her probationary status.
- During such time as the probationary officer/employee is being actively trained and evaluated in a probationary status, Field Training Officers or Trainers will not socialize nor associate with probationary officers/employees while either is off-duty, unless at a Department or bargaining unit sponsored event such as the annual POA Christmas party. Any relationship will be of a professional nature and strictly business related.
- FTO and Trainer personnel will not date or attempt to date recruit officers or employees while they are in the FTO/Training program. If an FTO/Trainer is related to a recruit officer/employee or if he or she had a personal relationship with the recruit officer/employee,

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which began before the City of Santa Clara hired the recruit/employee, the FTO/Trainer must advise the FTO Coordinator or Training Sergeant and the Division Commander of the relationship. The FTO/Trainer will be excluded from the recruit's/employee's training team.

- FTO's/Trainers will not live with or rent rooms to any recruit/employee while they are in the FTO/Training program, nor enter into any financial arrangements with any recruit/employee.
- FTO's/Trainers will not accept gifts from nor give gifts to the recruits/employees while they are in the FTO/Training program.

### Same Job Classification:

- Sworn personnel who have a personal or business relationship may work in the same work group (with the exception of working on the same patrol team) provided they are of the same job classification/organizational level, and such a relationship does not impair the work group's ability to function effectively.
- Non-sworn personnel who are in different classifications and who have a personal relationship may work in the same work group provided they meet the restrictions of this policy.
- The Chief of Police, or designee, shall have the authority to transfer either or both employees should the relationship impair their ability to do their job, or involve potential conflicts of interest. In the case of any such transfer the Department will, to the greatest extent possible, attempt to accommodate the affected employees by maintaining their respective workdays and assigned work hours.

### Supervisor to Supervisor:

- To ensure that the organization maintains proper supervision and that subordinate employees have the opportunity to seek advice or counsel from supervisors, it is not permissible to have two supervisors working the same shift who are involved in a personal relationship. This restriction applies whether or not the supervisors are in the same classification or job, or in different classification or different jobs.

### **26.4.6 Members of the Public**

- Department personnel shall refrain from developing personal, financial or business relationships with witnesses, victims, informants, or any other party to matters of official business, including active investigations and/or prosecution, with the Department that may affect the agency's ability to accomplish its mission. The purpose of this order is to avoid the appearance of a conflict of interest, whether or not a conflict actually exists.
- Any member of this Department, in any capacity, required to take enforcement action involving a person with whom that member has a personal, financial, or business relationship shall notify a supervisor of the circumstances as soon as it is practical, and after taking any

emergency actions necessary to stabilize the incident. The supervisor summoned to the scene of the incident will make a determination as to the appropriateness of the employee's continued participation in the enforcement action by evaluating the potential conflict of interest and the possible impact to any anticipated prosecution.

- This prohibition includes the giving or accepting of gifts.
  - The Department has a policy against the acceptance of gifts.
  - If an employee receives a gift from an individual who is a party to a matter as described in this General Order he/she shall:
    - Immediately notify his/her supervisor and report the details of receiving the gift.
    - Arrange for the immediate return of the gift to the donating party, with an explanation of why the gift cannot be accepted.
- Employees who believe they may have an actual or potential conflict of interest shall make their circumstances known to their immediate supervisor(s). In evaluating the circumstances, the supervisor shall consider the needs of the individual(s) and the Department.

#### **26.4.7 Duty to Notify Chain of Command**

- In the event that a member of the Department is in or enters into a personal, financial or business relationship that gives rise to an actual or potential conflict of interest between his/her professional duties and responsibilities and his/her personal relationship, financial or business interests, the member(s) of the Department shall immediately notify their division commander either in person or through their chain of command.
- Once a division commander becomes aware of a personal relationship involving Department employees that gives rise to an actual or potential conflict of interest as defined in this General Order, the division commander shall take appropriate action to eliminate the actual or potential conflict of interest.