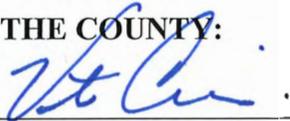


**MEMORANDUM OF UNDERSTANDING
BETWEEN
THE COUNTY OF STANISLAUS AND
DISTRICT ATTORNEY INVESTIGATORS ASSOCIATION
REPRESENTED BY THE
STANISLAUS COUNTY DISTRICT ATTORNEY INVESTIGATORS ASSOCIATION**

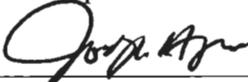
This agreement is entered into between the County of Stanislaus and the County District Attorney Investigators Association represented by the Stanislaus County District Attorney Investigators Association (SCDAIA).

Pursuant to the Employee relations Ordinance of the County and Section 3500 et seq. of the Government Code, the duly authorized representatives of the County and the SCDAIA, having met and conferred in good faith concerning the issues of wages, hours and terms and conditions of employment as herein set forth, declare their agreement to the provisions of this Memorandum of Understanding.

FOR THE COUNTY:



Vito Chiesa, Chairman
Board of Supervisors



Jody Hayes, Chief Executive Officer



Tamara Thomas, Human Relations Director
Chief Executive Office



Keira Vink (Jan 3, 2022 09:00 PST)

Keira Vink, Senior Management Consultant
Chief Executive Office



Yolanda Bearden (Jan 3, 2022 08:52 PST)

Yolanda Bearden, Management Consultant
Chief Criminal Investigator

Unable to Sign

David Harris, Assistant District Attorney
District Attorney



Terry Seese (Dec 27, 2021 14:30 PST)

Terry Seese, Chief Criminal Investigator
District Attorney



Christopher Fuzie, Human Resources Manager
District Attorney

FOR SCDAIA:



Paul Konsdorf (Nov 2, 2021 09:41 PDT)

Paul Konsdorf, Labor Representative
Goyette and Associates



Gerard Hilgart, President
Criminal Investigator



Richard Delgado (Nov 15, 2021 11:06 PST)

Richard Delgado, Vice President
Criminal Investigator



Rafael Vega, Member
Criminal Investigator



Richard Smith (Nov 29, 2021 13:38 PST)

Richard Smith, Member
Criminal Investigator

Angela Ontiveros

Angela Ontiveros (Dec 27, 2021 10:31 PST)

Angela Ontiveros, Human Resource Manager
Community Service Agency

Date Signed: 2/14/2022

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1. EMPLOYEES COVERED

This agreement covers the wages, hours, terms and conditions of employment for the term of the agreement for those employees in the classifications of Criminal Investigator I/II and Senior Criminal Investigator.

2. TERM OF THE AGREEMENT

This agreement shall remain in full force and effect for a thirty-six (36) month period commencing on July 1, 2021 and ending on June 30, 2024

3. NO STRIKE

SCDAIA acknowledges that strikes, slow-downs, sick-ins and other job actions which disrupt work are detrimental to the interest of the citizens of Stanislaus County and violate County ordinances. SCDAIA agrees, as consideration for the salary and fringe benefits herein set forth, that it will not participate in, condone, or encourage such actions during the term of this agreement.

4. NON-DISCRIMINATION/FAIR REPRESENTATION

The parties agree that the provisions of this agreement shall be applied without favor or discrimination based upon a protected class as described in Stanislaus County's Equal Employment Opportunity/Non-Discrimination Statement approved annually by the Board of Supervisors in compliance with Federal and State laws. The parties agree to recognize, respect, and support the County's commitment to non-discrimination in employment as set forth in the County's Equal Rights Program. SCDAIA agrees to encourage its members to assist in the implementation of that program.

SCDAIA agrees to acknowledge its responsibility to fairly represent all employees in the bargaining unit without favor or discrimination based upon a protected class as described in Stanislaus County's Equal Employment Opportunity/Non-Discrimination Statement approved annually by the Board of Supervisors in compliance with Federal and State laws. The County acknowledges and agrees that it will not discriminate or take adverse action against employees because they are members of the Union, participate in lawful Union activities or exercise their right to Union representation.

5. SAFETY PROGRAM SUPPORT

SCDAIA agrees to support the County's safety and loss control efforts. The parties agree to strive to reduce the number of industrial injuries among employees and maintain a safe place of employment and to encourage employees to perform their work in a safe manner.

6. COUNTY RIGHTS

Stanislaus County retains the exclusive right, except as expressly stated herein, to operate and direct the affairs of the departments of County government and all of their various aspects, including, but not limited to the right to direct the work force; to plan, direct, and control all of the operations and services of the County; to determine the methods, means, organization, and schedule by which such operations and services are to be conducted; to assign and transfer employees within the various departments; to hire, promote, suspend, demote, discharge, reprimand, and evaluate employees; to relieve employees from duty due to lack of work or other legitimate reasons as set forth in the County reduction-in-force policy; to change or eliminate existing methods, equipment, or facilities in order to maintain or increase the efficiency of governmental operations; and, to exercise complete control and discretion over its organization and the technology of performing its work. Nothing contained herein shall be construed to preclude meeting and conferring between employer and employee regarding the practical consequences that decisions on these matters may have on wages, hours, terms and conditions of employment.

7. COMPENSATION

A. Salary

Salary Increase

Effective the beginning of the first full pay period following bargaining unit ratification and BOS approval on the regular agenda the employees shall receive a salary increase of three percent (3%)

Effective the first full pay period following May 1, 2022, the employees shall receive a salary increase of three percent (3%).

Effective the beginning of the first full pay period following July 1, 2023, the employees shall receive a salary increase of three percent (3%)

B. COVID Recovery One-Time Payment

In recognition of current full-time County employees only who reported to work either in person or through teleworking during the period of April 1, 2020 through June 30, 2021, and if the employee remains employed with the County at the time of the issuance of the payment; the County will confer a one-time payment to eligible employees the first full pay period in September 2021. The following criteria shall be required in determining eligibility and calculating of the one-time payment:

- Employee must be a full-time employee.
- Employee's years of full-time service as of June 30, 2021 shall be used to determine years of service.
- Number of months between April 1, 2020 through June 30, 2021 a full-

- time employee reported to work either in person or through teleworking.
- Employees who were on a leave of absence, approved time off, and / or did no report to work during the entire month shall not be eligible to receive payment for that month.
- Employees who reported to work either in person or through teleworking at least one day in a month shall be eligible for a payment for that month.
- Employees who have left or leave the County service prior to the issuance of the payment shall not be eligible to receive the payment.
- Employee’s payment shall be calculated by Department payroll staff based on information contained in personnel records. Payment calculation will not be subject to the MOU grievance process. However, if an employee believes the payment they received to be incorrectly calculated, the County will review the matter with the employee and labor organization.
- One-Time Payment is subject to applicable State and Federal tax or other required deductions.
- One-Time Payment shall not be included as pensionable wages for the purposes of retirement.

COVID Recovery One-Time Payment					
Years of Service as of June 30, 2021	0-4	5-9	10-14	15-19	20+
Per Month Payment (for the period worked during April 1, 2020 to June 30, 2021)	\$50	\$75	\$100	\$125	\$150
Maximum Payment	\$750	\$1,125	\$1,500	\$1,875	\$2,250

C. Salary Administration

1. The parties agree that County salary policy applied to an employee dismissed during probationary service from a position to which he or she had been demoted, promoted or transferred, will be clarified as follows: Such an employee's salary shall be returned to the same step in the appropriate salary range as had been held prior to the promotion, demotion, or transfer. Employee salary review date, if applicable, shall be adjusted by the equivalent number of months during which an employee did not hold the classification to which he or she is returning.
2. The parties agree to the County policy concerning salary administration as follows: "Eligibility for advancement to subsequent salary steps will thereafter be based on one-year satisfactory continuous service at the

prior step until the employee reaches the maximum step of the appropriate salary range."

3. The parties further agree to the County's policy that an unprotected leave of absence without pay, or other time off without pay exceeding fifteen (15) calendar days shall cause the employee's anniversary date to be postponed. Employees who are on a protected, unpaid leave of absence qualifying for leave under the Family Medical Leave Act (FMLA), California Family Right Act (CFRA), 4850, or Pregnancy Disability Leave (PDL) shall not have his/her anniversary date postponed.

D. Overtime

Overtime shall be compensated at a rate of time and one-half of the employee's regular rate of pay for all time worked beyond 80 hours in a pay period. In calculating overtime eligibility, sick leave taken shall not be considered as time "worked". All other forms of paid time off in the form of vacation time, compensatory time, bereavement leave, jury duty, holiday pay, military leave, etc. shall be considered time "worked" for the purpose of overtime eligibility.

E. On-Call Pay

On-Call pay shall be compensated at \$250.00 for each seven (7) day period of required on-call service. Effective July 8, 2006, employees will have the option of choosing eight (8) hours of comp time for each seven (7) day period of required on call service in lieu of paid time.

Effective the first full pay period following bargaining unit ratification and Board of Supervisor approval, On-Call pay shall be increased fifty dollars (\$50) for a total of \$300 for each 7-day pay period of required on-call service.

Effective the first full pay period following 07/1/22, On-Call pay shall be increased an additional fifty dollars (\$50) for a total of \$350 for each 7-day pay period of required on-call service.

Effective the first full pay period following 07/1/23, On-Call pay shall be increased an additional fifty dollars (\$50) for a total of \$400 for each 7-day pay period of required on-call service.

F. Call-Back Minimum

The parties agree that the four (4) hour minimum call-back, paid at time and one-half, shall apply to members of the bargaining unit in any official call-back situation in which the employee is required to physically appear, including court

appearances when off-duty

Employees Not Required to Report to a Work Location

Employees who are required to handle telephone calls and related work from home shall be paid for actual minutes worked at a rate of time and one half. Time worked will be rounded to the nearest quarter hour in which they are on the phone or handling work that is related to the phone call. Employees will be responsible for logging their time on tracking sheets provided by the Department for payroll processing purposes.

Minute Breakdown:

Actual time worked between 1-15 minutes shall be paid 15 minutes call-back.

Actual time worked between 15-30 minutes shall be paid 30 minutes call-back.

Actual time worked between 31-45 minutes shall be paid 45 minutes call-back.

Actual time worked between 45-60 minutes shall be paid 60 minutes call-back.

G. Compensatory Time Off (CTO)

1. Overtime worked is accrued at one and one half pay rate. Employees who voluntarily work overtime to replace another employee who uses CTO to take time off shall only be paid for hours worked.
2. Compensatory time may be accrued to a maximum of 240 hours. Accumulation of CTO in excess of the maximum shall be paid. Employees may submit requests at a minimum of eight (8) hours to cash out accumulated compensatory time. The County shall cash out such requests in the following pay period in which it is received.
3. Employees may be permitted to use CTO within a reasonable period of time of a request as long as the request for time off does not unduly disrupt department operations. The Department shall make a good faith effort to approve the request and notify the employee as soon as practical. If vacation relief or other coverage is not available, the request shall be posted and/or made available for voluntary coverage.
4. Employees may not demand specific date(s) off using CTO, nor may the department order employees to take time off as CTO.
5. All employees who promote shall cash out the total accumulation of compensatory time at the employee's pay rate immediately prior to the promotion.

H. POST Incentive Pay

1. Intermediate

The County agrees that those individuals possessing an Intermediate POST certificate will receive a premium of six-and-one-half percent (6.5%) of actual base salary.

Intermediate POST Certificate pay is non-cumulative and cannot be combined with Advanced POST Certificate pay.

2. Advanced

The County agrees those individuals possessing an Advanced POST Certificate shall receive a premium of ten percent (10.0%) of actual base salary.

Advanced POST Certificate pay is non-cumulative and cannot be combined with Intermediate POST Certificate pay.

I. Retirement

1. Safety Employees Tier 5 Retirement Plan. Members of the bargaining unit employed prior to January 1, 2011 and with service retirement credit greater than zero, shall receive upon retirement, three percent (3%) of base salary at age fifty (50) calculated on the single highest twelve (12) consecutive months.

2. Safety Employees Tier 2 Retirement Plan. The Tier 2 retirement plan for all newly hired members of the bargaining unit is reinstated effective between January 1, 2011 and December 31, 2012. Safety Tier 2 benefits include the two percent (2%) at age fifty (50) retirement benefit per Government Code Section 31664 and final average compensation calculated on the highest thirty-six (36) consecutive months.

3. Safety Employees PEPRA Tier 6 Retirement Plan. Pursuant to California Public Employees' Pension Reform Act of 2013 (PEPRA), the County shall provide the StanCERA Tier 6 retirement plan (2.7% at age 57) for Safety employees hired on or after January 1, 2013. Final compensation will be based on the average of the highest wages earned in any thirty-six (36) consecutive months.

4. Employees who are rehired/reinstated with the County after the implementation of Tier 2 on January 1, 2011 or Tier 6 on January 1, 2013 and have met the necessary membership criteria to be placed in their former retirement tier shall be eligible for placement in that former tier. In

general, current legal standards allow rehired employees the opportunity to reinstate into their former retirement tier as long as the individual member either has left his retirement contributions on deposit since his prior period of County service or elects the redeposit of withdrawn retirement contributions plus applicable interest. The membership tier will depend on the employee's/member's individual circumstances and prior retirement selections. Employees who are rehired/reinstated with the County after January 1, 2011 are encouraged to confirm their membership status and retirement tier reinstatement options with StanCERA.

5. Public Employees' Pension Reform Act (PEPRA). On January 1, 2013 the Public Employees' Pension Reform Act (PEPRA) went into effect. Included in this act is a provision that requires New Members to pay at least 50% of normal cost and prohibits employers from paying this contribution on the employee's behalf [Govt. Code Sect. 7522.30(c)]. This measure defines a new member as: an individual who has never been a member of any public retirement system prior to January 1, 2013; an individual who moved between retirement systems with more than a 6-month break in service; and, an individual who moved between public employers within a retirement system after more than a 6-month break in service.

Employee retirement contribution rates are established by the Stanislaus County Employee Retirement Association (StanCERA).

In order to become compliant with PEPRA, all members of the bargaining unit will pay the full employee retirement contribution rate and the County will no longer pay the Employer Paid Member Contribution (EPMC). The specific employee retirement contribution will vary for each employee based on their individual retirement tier and age of entry into the retirement system. The current average member contribution for all Safety employees is 13.37% of retirement contributable income. In exchange for the County eliminating the current EPMC, the County will increase base compensation by 1% (one percent) for each 1% (one percent) of the overall average employee retirement contribution that will now be paid by each employee in the bargaining unit. For those safety units where the County currently pays 100% of the employee's retirement contribution, the County will use the overall average 13.37% safety employee contribution rate to calculate the wage increase, for a total base wage adjustment of 13.37% (13.37% x 1). The parties recognize this wage adjustment and the elimination of the EPMC will have varying impacts on bargaining unit members, as some members will have individual retirement contribution rates below or above the average for all safety members.

The elimination of EPMC and corresponding increase in base wages

occurred on February 8, 2014.

6. Employees in retirement Tier 4 (formerly Tier 1), shall maintain the retirement benefit known as “30-year pay.” Tier 4 employees are eligible for this benefit as determined by StanCERA when an employee has reached thirty (30) years of service and is no longer required to make contributions to the retirement system. The County will use 3.75% as the retirement pick-up amount utilized in the “30-year pay” calculation to determine the level of compensation the employee will receive.

J. Salary on Promotion

The County shall continue to guarantee a five percent (5%) minimum salary increases on promotion in accordance with the existing County Code provisions. Effective October 1, 1989, an exception to this provision shall be made if the step to which the employee is promoted is six (6) cents or less per hour under the minimum five percent (5%) increase. This provision shall apply for promotion to classifications within this unit or for promotion to classifications assigned to the bargaining unit for which this provision applies.

K. Supervisors

The County shall maintain at least a ten percent (10%) spread between Criminal Investigator II and Senior Criminal Investigator classifications in recognition of full-time supervision.

L. Designation of Bilingual Positions

The County will designate certain languages as eligible for bilingual certification. Employees asserting their competence in any County designated bilingual language shall be given the opportunity to test for bilingual certification. The County Chief Executive Officer (CEO) or designee is responsible for conducting bilingual certification testing within a reasonable amount of time. Employees will be tested for verbal and/or written bilingual proficiency as determined by the County CEO and Chief Criminal Investigator. Employees who pass the test will be certified as bilingual.

Employees certified as bilingual will receive additional compensation of two and one-half percent (2.5%) of base pay for bilingual certification pay, effective the first full pay period following the certification date. Only those employees certified bilingual will be granted bilingual certification pay.

Employees receiving bilingual certification pay shall use their bilingual skills within the course of employment to maintain the certification pay. Bilingual employees who are not certified as bilingual will not be subject to discipline for declining to use bilingual skills in the course of employment.

8. HOLIDAY/VACATION TIME PROVISIONS

A. County Holiday Policy

1. The parties agree that only the immediate days of mourning or holiday declared by the President of the United States and the Governor of California will be considered County holidays in addition to the specific list of holidays already present in the County Code.
2. Compensate eight (8) hours of holiday credit while on-call during a recognized holiday:

New Year's Day, January 1st
Martin Luther King Day
President's Day
Memorial Day
Independence Day, July 4th
Labor Day
Veterans Day, November 11th
Thanksgiving Day
Day after Thanksgiving
Christmas Eve, December 24th (See below)
Christmas Day, December 25th

Christmas Eve is an eight (8) hour holiday when Christmas Eve falls during an employee's regular work schedule. Employees who work Monday through Friday, will be provided with eight (8) hours when Christmas Eve falls on a Monday through Friday. Eight (8) hours of holiday credit will be given when an employee physically works a full shift on Christmas Eve.

B. Combining Vacation & Optional Holiday Time

The parties recognize that on December 31, 1983, any optional holiday time was combined with vacation benefits. The rate of accrual of vacation hours was increased on January 1, 1984 by sixteen (16) hours of "special" vacation time each calendar year in lieu of optional holiday time. See sub-division F of this section for vacation accrual rates.

Optional holiday time on the books as of December 31, 1983, for an employee, was frozen on the books and may be:

1. Taken as time off,
2. Cashed out with the approval of the employee, the department head and the County Auditor-Controller, or
3. May be cashed out upon the employee's termination.

C. Vacation Credit for Holidays

Eight (8) hours of vacation credit for holidays will be given during the bi-weekly period in which the holiday occurs. The exceptions to this are:

1. New hires or employees who return from leave of absence will receive vacation credit for a holiday if the first day worked is on or before the holiday.
2. Terminated or discharged employees, or those beginning an unpaid leave of absence, will accrue vacation credit for a holiday if the last day for which pay is received falls after the holiday, or if the last day worked falls on the holiday.
3. Employees on disciplinary suspension without pay will not receive vacation credit for a holiday occurring during the period without pay.
4. Employees taking time off without pay will not accrue the holiday if they are on an unpaid status during the major portion of the pay period.
5. Optional (floating) holidays will continue to be credited to vacation balances at the first of the year.

D. Limited Cash Conversion

The parties agree that employees with one hundred (100) or more hours of accrued vacation on the record may request conversion into cash payments of up to forty (40) hours of accrued vacation not more frequently than once in a fiscal year. Employees with 200 or more hours of accrued vacation on the record may request conversion into cash payment of up to 60 hours of accrued vacation once in a fiscal year. Such conversion shall be granted upon approval of the department head and the Auditor-Controller. Requests shall not be unreasonably denied.

Retirees Retiring in the next 12 months:

Employees retiring from County service who sign an irrevocable notice of their retirement from County service on forms provided by the County will be eligible to cash out sixty-five (65) hours in two (2) consecutive fiscal years. The retirement notice needs to be twelve (12) months in advance of the employee's selected retirement date. Employees may request Department Head approval to extend their planned retirement date, however, any approved extension will not provide additional guaranteed vacation cash outs. Employees must be eligible for a regular service retirement in order to receive this exemption. Nothing in this provision will increase the level of cash out allowed for retirement purposes in terms of determining final average salary.

E. Vacation Accumulation Maximum

Vacation time in the amount not to exceed four hundred fifty (450) hours shall be carried over on employee accrual balances from year to year.

The parties agree that employees who have reached the four hundred fifty (450) hour vacation accumulation maximum shall not accrue any additional vacation time. Accrual of vacation time shall again commence in the pay period that the employee's vacation time has fallen below the four hundred fifty (450) hour maximum. It is the policy of the County that employees take at least their normal vacation each year, provided, however, that for reasons deemed sufficient by their department head, an employee may, with the consent of the department head, take less than the normal vacation time with a correspondingly longer vacation the following year.

Employees shall receive notification of vacation accrual balances through the employee's paycheck advice notice. Employees are encouraged to request vacation upon nearing the vacation accumulation maximum of four hundred fifty (450) hours pursuant to department procedures.

Failure by the employee to make a good faith effort to request vacation in accordance with departmental procedures will result in vacation accrual stoppage at four hundred fifty (450) hours.

If the employee does make a good faith effort to request vacation time and the request is denied by the department, or the approved vacation is canceled, or cannot be utilized by reason of subpoena or other required duties of the Department, the employee shall receive up to eighty (80) hours of vacation cash-out. It is understood employees may have to request vacation time outside of high use times, i.e., holiday seasons and summer months.

F. Vacation Accumulation Rate

The parties agree that consistent with the County code the following vacation accumulation rates are in effect during the term of the agreement:

3.08 hours per pay period (ten (10) days a year) for the first through completion of the second year of continuous services.

4.62 hours per pay period (fifteen (15) days a year) for the third year through and including the tenth year of continuous service.

6.16 hours per pay period (twenty (20) days a year) for the start of the eleventh year through and including the twentieth year of continuous service.

7.70 hours per pay period (twenty-five (25) days a year) for the twenty-first year

of continuous service and thereafter until separation from County service. In addition, employees shall earn sixteen (16) hours of “special” vacation time each calendar year in lieu of optional holiday time. “Special” vacation shall be earned in addition to the regular vacation and shall be earned by prorating said amount over twenty-six (26) pay periods.

9. WORK SCHEDULES

The Department may assign Criminal Investigators and Senior Criminal Investigators based upon departmental need to either a 5/8, 9/80, or 4/10 work schedule. Investigators shall not involuntarily have their schedules changed without fourteen (14) days’ notice.

10. PAID BREAKS

The parties agree that employees who are required to perform work duties during a lunch break will be allowed to convert their lunch break to a paid break.

11. LEAVES OF ABSENCE

- A. As a condition for a leave of absence without pay to continue, the County may require the employee on leave to provide periodic status reports demonstrating that the conditions still remain upon which the leave of absence was initially requested and approved.
- B. In addition, the parties agree that time worked during the probationary period will be counted toward permanent status even if the person has an intervening leave of absence during the probationary period.
- C. The parties further agree to the County's policy that an unprotected leave of absence without pay, or other time off without pay exceeding fifteen (15) calendar days, shall cause the employee's date of eligibility for increased vacation accrual rates to be postponed. Employees who are on a protected unpaid leave of absence qualifying for leave under the Family Medical Leave Act (FMLA), California Family Rights Act (CFRA), 4850 or Pregnancy Disability Leave (PDL) shall not have his/her anniversary date postponed.

12. AUTOMATIC RESIGNATION

The parties agree that an employee who is absent without authorization and without contacting his or her supervisor for three (3) consecutive working shifts, or longer, will be presumed to have voluntarily resigned from County service, effective on the date at which the unauthorized absence began. The provisions of County Code Section 3.28.130 (Petition to Set Aside Resignation) shall apply.

13. MAXIMUM SUSPENSION

The parties agree that the maximum time period during which an employee may be suspended for cause pursuant to County discipline policies is ninety (90) days. Notwithstanding the ninety (90) day maximum, both parties recognize that the Disciplinary Appeals Board could impose a longer suspension in lieu of termination.

14. NO CHARGES ON PROBATIONARY TERMINATIONS

The parties agree that the County will not be required to prepare a statement to the file as to why an individual's probationary period was terminated.

15. REDUCTION-IN-FORCE POLICY

The parties agree that the County Reduction-In-Force Policy included in this agreement as Attachment A applies to all employees covered by this agreement. At least twenty-one (21) calendar days of advance notice will be given to employees affected by reduction-in-force actions.

16. PERSONAL PROPERTY DAMAGE PROCEDURE

The parties agree that the County policy providing for reimbursement to personal property such as clothing damaged or destroyed in the line of duty and without employee negligence will continue with the specific understanding that normal wear and tear is not covered as reimbursable and that any and all disputes arising out of this process will be referred for resolution to a County department head mutually agreed upon. If the parties cannot agree on a particular department head, one will be selected by an alternate striking method. Normal wear and tear refers to the wearing out of articles of personal property or clothing that results over time and through no sudden or unusual occurrence such as line of duty accident. This covers the fact that many articles of clothing wear out with age and would be replaced in the normal course of our personal lives.

17. GROUP INSURANCE BENEFITS

A. Health Insurance

Employee health (medical, dental and vision) insurance benefits are negotiated under a separate meet and confer through implementation process between the County and all represented employee bargaining units. A copy of the health agreement is attached to this agreement.

B. State or Federal Health Care Reform

Should any new State or Federal legislation be approved to take effect during the term of the agreement which affects the County's health insurance programs, the parties agree to immediately meet to determine the potential impact, if any, on employees or the County, of the legislation. Absent legislation modifying such,

the County agrees that at least the dollar amounts of premium contributions made by the County for health insurance premiums shall be available to employees during the terms of the agreement, unless amended through the joint negotiation process on health insurance.

18. PAYROLL DEDUCTIONS

The County will provide a payroll deduction for DA Investigators pursuant to the following:

A. Dues Deduction

1. If the Association decides to implement membership dues payment through payroll deduction, the Association shall submit a certification/list to the County. The Association will maintain individual employee authorizations for payroll deductions, signed by the individual, from whose salary or wages the deduction is to be made of effected Association members. The County shall rely upon written notification from the Association for any and all employee requests to commence, cancel or change payroll deductions for membership dues. The County shall direct employee inquiries to cancel or change dues deductions to the Association.
2. Deduction notification will be provided to CountyPayroll@stancounty.com. Changes, cancellations, etc. received by the County prior to the 15th of the month. Example: Association notifies the County on January 15th, the deductions will be effective no later than the first full pay period in March. The parties recognize there is a lapse in time due to pay period processing constraints.
3. The County shall deduct Association dues and other authorized deductions from members' paychecks upon receiving a certified list from the Association as set forth in paragraph A above, and will forward said deductions to the Association on a biweekly basis. In the event the Association changes its dues deduction amount, the County will process the change not more than thirty (30) days after receiving notice from the Association of the change; the change will take effect at the start of the first full pay period following.
4. The Association agrees to indemnify and defend the County and its officers, employees and agents against any and all claims, proceedings and liability arising, directly or indirectly, out of any actions taken or not taken by or on behalf of the County under this section.

B. Credit Union Deductions - Operating Engineers

The parties agree that effective after Board of Supervisors approval of this agreement, the County will provide a voluntary payroll deduction for the Operating Engineers Credit Union.

C. Voluntary Dues Deduction - Long Term Disability Income Protection Plan

The County agrees to implement a voluntary dues deduction program for members of the bargaining unit to participate in a long-term disability insurance plan. The voluntary deduction shall be implemented after Board of Supervisors approval of this Agreement, and in accordance with the policy of the Auditor-Controller.

19. SICK LEAVE

A. Cash out Provisions

The parties agree that the sick leave policy of the County in effect immediately prior to the commencement of this agreement shall remain in effect during the term of this agreement, with the exception that the policy of the County concerning pay for a portion of accrued sick leave upon termination of County employment will be amended as follows in consideration of the salary and other fringe benefit increases in this agreement. The parties agree that Criminal Investigators and Senior Criminal Investigators who terminate from County service as a result of death, non-service connected disability retirement, or service retirement shall be eligible to receive cash for accrued, but unused, sick leave on the books at the rate of fifty percent (50%) of the salary equivalent of such sick leave.

The parties agree that effective November 1, 1987, at the time a Criminal Investigator or Senior Criminal Investigator is granted a service connected disability retirement, the employee will not have the option to continue his or her disability leave charged against accrued sick time. Any accrued sick leave will be cashed out at seventy-five percent (75%). The seventy-five percent (75%) cash out will be limited to this circumstance only.

Criminal Investigators or Senior Criminal Investigators terminating from County service for all other reasons, including but not limited to resignation and discharge, shall not be eligible to receive any cash out of unused sick leave.

The maximum amount of sick leave that shall be applied toward the cash out provisions as provided for in this section shall be six hundred (600) hours. For example, if an employee retires from County service, he or she would be cashed out for fifty percent (50%) of six hundred (600) hours or three hundred (300) hours. Time in excess of the six hundred (600) hours shall continue to accrue and

be used in the case of illness.

In addition, any current employee who has accrued time in excess of six hundred (600) hours shall, upon retirement, and consistent with current MOU provisions, cash out the amount of time accrued as of January 1, 1995 or the end of the last pay period in October, whichever time is higher. The total sick leave accrual on the date for each employee shall become the employee's individual maximum or cap for sick leave cash out purposes while the employee remains in the continuous employment of the County. For example, if the employee has one thousand (1,000) hours on the date the cash out maximum takes effect, he or she would be cashed out for fifty percent (50%) of one thousand (1,000) hours or five hundred (500) hours upon retirement. Any time accrued in excess of this time shall not be subject to cash out.

The purpose of this provision is to place a ceiling on the County's cash out liability for sick leave while maintaining unlimited accrual of sick leave for catastrophic illness.

Absent the County agreeing to convert the time to service credit, the parties agree that the prior cash out policies shall take effect for members of the bargaining unit employed at that time, retroactive to the implementation date, including any member who may have retired. In addition, if the County does not agree to convert the time to service credit, the parties acknowledge that all new hires appointed on or after April 1, 1995 shall have a maximum of six hundred (600) hours of sick leave to apply toward cash out upon retirement. The only exception to the new hire appointment will be in the case of an employee promoting or transferring to an investigator position from another department in the County who has a higher individual maximum as provided by this Section. In this case, the employee's individual sick leave maximum shall be maintained.

B. Conversion of Sick Leave Cash out Benefits to Health Insurance Upon Retirement

If the County establishes a program which allows for the conversion of sick leave cash out benefits to cover the cost of health premiums upon retirement, that program shall be made available to all employees covered by this agreement. This program must meet the criteria of the Auditor-Controller and Internal Revenue Codes for tax purposes.

20. WORK TIME REPORTING REQUIREMENTS

- A. Both parties agree to the importance of having accurate reporting of work time entered on timesheets or into the electronic timecard system in order to ensure:
1. The data necessary for the accurate and timely payment of wages is collected;
 2. Compliance with appropriate governmental regulations; and
 3. The required supporting documentation is maintained.

- B. Employees are required to report all time worked on timesheets or into the electronic timecard system. This includes entering time-in and time-out for each workday. For timekeeping purposes, time-in is the time you begin work and time-out is the time you break from work for a meal period or leave work for the assigned day or shift. The payroll system allows for employees to enter actual start and end times to the minute and this would be the expectation for all employees when reporting time on timesheets or into the electronic timecard system.
- C. When evaluating employee attendance actual start and stop times will be used.
- D. The parties further agree to meet and confer on an upgrade to the electronic payroll system to allow for rounding of time for payment purposes in accordance with the Fair Labor Standards Act (FLSA).

21. MILEAGE REIMBURSEMENT

Mileage reimbursement rates will be established by the County Auditor-Controller effective January of each year based on the rates published by the IRS.

22. FUTURE MEET AND CONFER TOPICS

The parties agree, during the term of this agreement, to meet and confer at the request of either party to the extent required by the Myers-Miliias-Brown Act. These mutual, non-binding discussions are specifically limited to the following:

- A. Health and Welfare Benefits
- B. Retiree Health Care
- C. Amend Stanislaus County Personnel Policies that are subject to meet and confer
- D. Examine Medical Terminations Pursuant to Section 19253.5(a) Government Code
- E. Safety Equipment

The County agrees that any changes made as a result of the meet and confer process pursuant to this section shall not result in a loss of salary, compensation or cafeteria contributions currently provided.

23. COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT (ADA)

The County and SCDAIA acknowledge and agree that the ADA may require modification of County policy or MOU provision in order to provide reasonable accommodation to individuals protected under the Act on a case by case basis. The County and the Union agree to meet and confer if the accommodation will require some modification of the MOU or County policy which affects any term or condition of employment or is otherwise a mandatory subject of bargaining. Said meet and confer will be on a case by case basis and no single accommodation shall establish a past

practice.

24. SEVERABILITY

It is not the intent of the parties hereto to violate any laws, rulings or regulations of any governmental authority or agency having jurisdiction over the subjects of this collective bargaining agreement, and the parties hereto agree that in the event any provisions of this agreement are finally held or determined to be illegal or void as being in contravention of any such laws, rulings or regulations, nevertheless, the remainder of the agreement shall remain in full force and effect unless the parts so found to be void are wholly inseparable from the remaining portion of this agreement.

25. FULL UNDERSTANDING

- A. This Agreement sets forth the full and entire understanding of the parties regarding the matters set forth herein, and any and all prior or existing Memoranda of Understanding, Understandings, and Agreements regarding the matters set forth herein, whether formal or informal, are hereby superseded and terminated in their entirety.

Existing practices and/or benefits which have a direct effect on employee wages, hours and other terms and conditions of employment which are not referenced in this Agreement shall continue without change unless modified or abolished by mutual agreement of the parties.

- B. It is the intent of the parties that ordinances, Board resolutions, rules and regulations enacted pursuant to this Agreement be administered and observed in good faith.
- C. Nothing in this Agreement shall preclude the parties from mutually agreeing to meet and confer on any subject within the scope of representation during the term of this Agreement.

26. DISCIPLINE AND GRIEVANCE ARBITRATION

The County and Stanislaus County District Attorney Investigators Association agree to abide by the terms and conditions set forth in Attachments: B-1, Grievance Procedure, B-2 Discipline of Permanent Classified Employees, and B-3 Binding Arbitration Discipline.

ATTACHMENTS

- A. Reduction-In-Force Policy
- B-1. Grievance Procedure
- B-2. Discipline of Permanent Classified Employees
- B-3. Binding Arbitration Discipline

ATTACHMENT A
STANISLAUS COUNTY REDUCTION-IN-FORCE
CLASSIFICATION SENIORITY CALCULATION

The following Reduction-In-Force Policy has been established and agreed to for the following bargaining units effective August 7, 2012:

County Attorneys' Association (CAA)
Stanislaus County District Attorneys' Association (SCDAIA)
Stanislaus Regional Emergency Dispatchers' Association (SREDA)

The joint Reduction-In-Force Policy may only be amended by mutual agreement of the County and all represented bargaining units. Issues related to implementing reduction-in-force actions which are not specifically addressed within this policy will be subject to further meet and confer between the County and the affected bargaining unit(s).

REDUCTION-IN-FORCE

Whenever in the judgment of the Board of Supervisors, it becomes necessary in the interest of economy or because the necessity for a position no longer exists, the Board of Supervisors may abolish a position or classification, and if necessary, reduce personnel by laying off employees without the filing of disciplinary charges and without granting the employee the right of appeal except as accorded in these provisions. In reducing the number of employees every effort will be made to avoid displacing existing employees by allowing voluntary demotion or transfer to vacant positions. In laying off employees in the Classified Service the order of separation shall be based upon seniority as herein specified.

Alternatives to Layoffs

Upon request of the Union, the County agrees to meet and confer with the Union prior to implementing any reduction-in-force action, to discuss alternatives to lay-off.

ORDER OF SEPARATION

Employees in the same classification and department shall be separated considering type of appointment and total continuous seniority with the least senior employee in any category of appointment being the first separated and with tied seniority scores broken as provided herein.

The sequence of separation by appointment types shall be:

1. Provisional
2. Extra-Help/Part-time (Extra Help positions may be maintained by mutual agreement of County and impacted bargaining unit)
3. Trainee
4. Regular Full-time

Within regular full-time appointments, employees with probationary status (either initial County or classification) shall be laid off before employees with permanent status in the same classification regardless of relative seniority.

REDUCTION-IN-FORCE SENIORITY PROCEDURE

In calculating total continuous service for the County, those records which are maintained by the Chief Executive Office shall be utilized. However, should there be a challenge to the validity of the calculations or cases of equal or near equal seniority, the Chief Executive Office may utilize such payroll or other records which may be on file with the Auditor-Controller's Office or other department.

Continuous Service Defined

Employees on approved leaves of absences without pay, catastrophic leave (donated time) or unpaid suspension shall retain seniority accumulated before the leave of absence. The first 60 calendar days on the unpaid leave, catastrophic leave or suspension will be included in the seniority score computation. Time will be deducted starting the 61st calendar day of such leave. Time spent on military leave is not deducted for the purposes of calculating seniority regardless of the length of such leave.

Service to the County including personal services contractor, unpaid volunteer/intern, or any service which is not in an employer-employee relationship does not count toward total County seniority.

Continuous service is defined as all service in the County regardless of classification and department. When there has been a permanent separation of 90 days or more credit shall be given only for full-time employment following such break in services. If an employee has a break in service less than 90 days, only the time before and after the break would count toward seniority time. Persons hired from a reduction-in-force reemployment list regain all previously earned seniority on the date of reemployment.

SENIORITY CALCULATIONS

Among permanent employees the order of layoff will be determined by the employee's seniority calculation in the following order:

1. Classification Seniority (The Attorney I-V classification will be based upon working titles);
2. County Seniority for Regular Full-Time Employees;
3. Department Seniority;
4. County Seniority with extra help service included; and,
5. Lottery

1) Calculation of Classification Seniority

Among permanent employees in the affected classification and department, the order of layoff will first be determined by total continuous full-time service in the employee's current classification and higher-ranking classification, if applicable.

For block-budgeted classifications (example, Attorney I-V) total continuous service in all levels of the block-budgeted classification will be included in the seniority score. For individuals in the Attorney I-V classification, the seniority score will be calculated utilizing the individual's working title. For example, calculation of classification seniority will be based upon time as a Deputy District Attorney, Deputy Public Defender, or Attorney assigned to Child Support Services.

Extra-help/part-time is not counted in calculating Classification Seniority.

2) Calculation of County Seniority for Full-Time Regular Employees

In the case of two or more employees with equal Classification Seniority, the order of layoff will then be determined by County Seniority. Calculation of County Seniority means all continuous service in the County in a regular full-time position. Extra-help/part-time service time is not counted in calculating regular full-time County seniority.

3) Calculation of Department Seniority

In the case of two or more employees with equal Classification and County Seniority the order of layoff will then be determined by total continuous full-time service in all positions held in the impacted department. Extra-help/part-time service is not counted in calculating Department Seniority.

4) Calculation of County Extra-Help Service

In the event of a tie extra-help hours during continuous service will be included in the total Seniority calculation. Extra-help hours served on or after January 1, 1999, will be counted on an hour-for-hour basis with eight (8) hours as the equivalent of one (1) work day of service. Extra-help hours served prior to January 1, 1999, are not available in the existing payroll system and will be calculated at 2.86 hours a day per seven (7) calendar days of service (equivalent of 20 hours).

5) Lottery

Should the order of layoff not be determined in the calculation of Classification, County, County Service with Extra-help included, or Department Seniority an agreed upon lottery system will be used to determine the order of layoff. The County and the impacted bargaining unit(s) will meet and confer over the terms and conditions of the lottery process prior to each lottery.

WRITTEN NOTICE

Written notice of layoff shall be served by the Chief Executive Office on affected employees in person or by certified letter mailed to the last address on file with the Chief Executive Office. Notice will be served or mailed at least twenty-one (21) calendar days prior to the effective date of the separation. Notice shall be deemed served upon return of a delivery receipt or receipt showing attempted delivery.

Notice of probationary release to employees on Probation will be served by the Department Head.

DEMOTION RIGHTS IN LIEU OF LAYOFF

In lieu of being laid off, an employee may elect to voluntarily demote within the same department to a lower paid classification in the same series or to a classification previously held; this will require the department to have a vacant position available, or for the demoting employee to have more seniority than existing employees in the position in which they are demoting to. Employee must currently meet the minimum qualifications in order to demote to a classification previously held or within the classification series. Individuals with multiple demotion rights will be demoted to the highest classification previously held or in the classification series. Less senior employees in the department who may be displaced as a result of demotion actions shall in turn be subject to the provisions of this section. In order to exercise these options, the employee affected must so advise the Chief Executive Officer/designee in writing no later than seven (7) working days after receiving notice of layoff.

TRANSFER IN LIEU OF LAYOFF - VACANCY

In lieu of being laid off, an employee may request to voluntarily transfer or demote to a vacant position in another department, in the same or comparable classification or to a classification previously held where the employee presently meets the minimum qualifications. Such requests require completion of the receiving Department's background process and approval by the gaining Department Head. (Department probation, if applicable, may be applied.)

TRANSFER ACROSS DEPARTMENT LINES- FILLED POSITIONS

Employees may bump across department lines in only one circumstance. A permanent employee impacted by a reduction-in-force action, shall have the right to transfer to a position filled by a probationary employee if the position is in the same classification and if the less senior employee is on initial County probation. The employee electing to "bump" to the new County department may be required complete the receiving Department's background process and to serve Department Probation for a period not to exceed six (6) months. The employee shall maintain his or her re-employment rights within the Department he or she transferred from. This provision shall not apply to Attorney I/II/III/IV/V positions assigned to the District Attorney's Office, the Public Defender's Office or the Department of Child Support Services.

RE-EMPLOYMENT

For a period of eighteen (18) months from the effective date of layoff no regular position in the affected classification in the department involved shall be filled without first providing employees possessing rights to re-employment with an opportunity to be rehired. The parties have agreed to extend re-employment rights to three (3) years.

Re-employment lists shall be in inverse order of lay-off with the most senior employee from amongst those laid-off rehired first. Such re-employment would be at the same salary step or the salary range assigned such classification and with the same seniority as the employee had earned at the time of layoff. Benefits paid out at the time of separation such as vacation or sick leave may be bought back at employee expense. Written notice of the re-employment opportunity shall be sent by certified mail to the last known-address of the former employee by the Department Head or designee. The former employee shall have fourteen (14) calendar days to respond to the notice.

ADMINISTRATIVE DECISIONS

The Chief Executive Officer is authorized to render decisions resolving questions of seniority, performance, and continuous service incident to the administration of this section.

SPECIAL CIRCUMSTANCES

Employees assigned to a position on the basis of bona fide occupational qualifications may be exempted from the reduction-in-force list for their classification where those skills are necessary to continue the level of service rendered by the program.

APPEALS

Persons subject to layoff or demotion under these provisions may appeal to the Chief Executive Officer any allegation of error, fraud, irregularity or bias in the application of the reduction-in-force procedures. Any appeal submitted shall include the basis for the appeal.

An informal appeal shall first be filed by the affected person to the County's Deputy Executive Officer of Human Resources within seven (7) days of receiving the notification of the reduction-in-force. The Deputy Executive Officer shall review the applicable MOU, County's Reduction-in-Force Policy, and the seniority calculation methodology. The Deputy Executive Officer shall respond to the appeal request in writing.

The affected person may appeal the Deputy Executive Officer's decision to the County's Chief Executive Officer, within seven (7) days after receipt of the decision Deputy Executive Officer's decision. The Chief Executive Officer shall respond to the appeal request in writing.

Shall the affected individual wish to appeal the Chief Executive Officer's decision he/she may request a hearing with the Hearing Board established pursuant to Stanislaus County Ordinance Code 3.28.060 within seven (7) days of receipt of the Chief Executive Officer's decision. The

appeal shall be filed with the Chief Executive Office Human Resources Division. The Chief Executive Office Human Resources Division shall forthwith transmit the appeal request to the Hearing Board. The Hearing Board shall within a reasonable time from the filing of the appeal, commence the hearing thereof and shall notify the interested parties of the time and place of the hearing at least five (5) days in advance thereof.

At the hearing, both the appellant, and the County shall have the right to be heard publicly, to be represented by Counsel and to participate in the appeal process including presenting evidentiary facts. In certain situations, in which an affected employee is disputing the seniority calculation of another employee both the affected employee who is disputing the seniority calculation and the employee whose seniority is being questioned may have the right to be present at the hearing subject to agreement from the affected labor organization and the County. The parties may agree to a hearing closed to the public and the Hearing Board may at any time exclude any person who may be a witness in the appeal under consideration. The hearing shall be informal, and the Hearing Board shall not be bound by any of the rules of evidence governing trial procedure and State courts. The Hearing Board shall render a written decision, copy of which shall be transmitted to the Chief Executive Officer. The Chief Executive Officer shall serve a copy of the decision upon the appellant. The decision of the Hearing Board shall be final.

Relevant provisions in Chapter 3.28.060 and 3.28.070 of the Ordinance Code of Stanislaus County shall govern the hearing process.

SICK LEAVE CASH OUT PROVISIONS

Employees with one (1) year of service or more who are laid off due to a reduction-in-force shall be eligible for twenty-five percent (25%) sick leave cash out upon termination from the County.

UNREPRESENTED COUNTY EMPLOYEES

The Reduction-in-Force Policy does not apply to unrepresented, unclassified County employees. Unrepresented employees in the Community Services Agency and Department of Child Support Services who have property rights under the approved local merit system will have the reduction-in-force administered in compliance with County policies. In the event a reduction-in-force occurs where an unclassified, unrepresented employee may have demotion rights to a classified position, the County will meet and confer with the affected labor organizations over the impacts to the affected bargaining units.

GRIEVANCE PROCEDURE - MOU PROVISION

Procedure for Settling Grievances Including Binding Arbitration

- A. Intent: It is the intent of this provision of the Memorandum of Understanding to provide orderly and equitable procedures for the presentation and resolution of misunderstandings and disputes between the County and its employees. It is further intended that the exercises of these rights in good faith be available to all County employees, (except as herein provided) without fear of reprisal or coercion.

- B. Definitions:
 - 1. Grievance - A grievance is defined as an employee initiated allegation that a term or condition of employment established by State law, County Ordinance, resolution, Memorandum of Understanding or written departmental policy is being violated provided, however, that such term or condition of employment is not subject to the discretion of the County or is not a subject outside of the scope of representation as defined in Section 3500 et seq. of the Government Code or the County's Employee relations Ordinance. This grievance procedure shall not apply to matters within the scope of applicable Federal or State grievance procedures.

 - 2. Complaints - A complaint is defined as an employee initiated allegation or dispute concerning terms and conditions of employment which are not grievances as defined above. Complaints shall be handled as herein provided except that as complaint may not be appealed to the Chief Executive Officer or to arbitration.

- C. Exclusion of Disciplinary Appeals and Equal Employment Opportunity Grievances - Appeals from disciplinary actions or grievances alleging violation of the County's policies of equal employment opportunity or equal rights or involving allegations of employment discrimination will be handled pursuant to the County's Equal Employment opportunity grievance procedure and does not include binding arbitration as the final step in the procedure.

- D. Representation - In presenting and resolving grievances, employees may represent themselves on County time, within reason, or may designate a representative of their own choosing. Costs associated with such representation, if any, will be borne by the employee.

- E. Time Limits - The time limits herein specified may be extended to a definite date by mutual consent of the parties. Failure to meet time limits by the employee shall constitute withdrawal of the grievance. Such failure by the County shall entitle the employee to request the next step in the procedure.

F. Grievance Procedure Steps:

1. Informal Discussion - Every effort should be made to settle grievances at the lowest level of supervision possible. The employee should advise his/her immediate supervisor that a grievance is present and explain it to the immediate supervisor no later than fifteen (15) working days after he becomes or should become aware of the issue. The immediate supervisor shall thereafter hear, and decide the matter informing the employee of the decision orally within seven (7) working days.
2. Written Grievance - If the grievance is not resolved through informal discussion, the employee may within seven (7) working days from the date of the supervisor's informal decision, submit a written grievance to said supervisor with a copy submitted to the Department Head and the Director of Personnel. Such a written grievance, signed by the employee shall set forth the facts as issue, the relief sought and time of occurrence of any alleged incident or violations precipitating the grievance. The supervisor shall thereafter further investigate and consider the grievance and deliver a written decision to the employee within seven (7) working days after receiving the grievance.
3. Department Head Review - If the grievance is not resolved by the written decision of the supervisor, the employee may request in writing within seven (7) working days after delivery of prior written decision that the grievance be reviewed by the Department Head. If such a request is received, the Department Head or his designee shall conduct such meeting(s) with the employee, informal hearings or investigations as are appropriate in his judgment and deliver to the employee a written decision within seven (7) working days after receipt of the review request.
4. Advisory Opinion of Director of Personnel - At any point in this procedure after filing a written grievance or complaint, the Director of Personnel may offer, or either party may request, the non-binding advisory opinion verbal or in writing of the Director of Personnel concerning resolution of the grievance or complaint.
5. Grievance Appeal - If the employee wishes to appeal the Department Head's decision, he/she shall do so in writing within seven working days after receipt of the Department Head's decision. The employee may elect to submit the grievance for final decision to 1) either the Chief Executive Officer or 2) the employee may request binding arbitration. Within the specified time period the employee shall specify in writing to the Director of Personnel whether the grievance should be submitted to the Chief Executive Officer or binding arbitration. The decision to utilize either procedure shall be the prerogative of the aggrieved employee(s); access to only one of the two procedures for the purpose of resolving the alleged grievance shall be given the employee(s); the option of procedure utilized shall be binding and irrevocable upon the employee; and the procedure utilized shall be limited to grievances only as defined in Section B, subsection 1 herein, excluding all complaints.
 - a. Submission of the Grievance Appeal to the Chief Executive Officer

If the employee wishes to appeal the Department Head's decision to the Chief Executive Officer, in lieu of binding arbitration, the employee shall do so in writing to the Director of Personnel specifically stating this option, within seven

working days after receipt of the Department Head's decision. The Chief Executive Officer or his/her designee shall thereafter conduct an informal hearing, and any other meetings or investigations as are appropriate in his/her judgment. The written decision of the Chief Executive Office or his/her designee shall be delivered to the employee within fifteen working days after receipt of the appeal. The decision of the Chief Executive Officer or his/her designee shall be the final step in the County's procedure for settling grievances.

b. Submission of the Grievance Appeal to Binding Arbitration

If the employee wishes to appeal the Department Head's decision and elects to not refer the matter to the Chief Executive Officer for final resolution, the employee may elect binding arbitration by writing to the Director of Personnel within seven (7) working days after receipt of the Department Head's decision. However, the employee must obtain prior written approval from Stanislaus County District Attorney Investigators Association to elect and proceed to arbitration. The request will include arbitrator names who are current members of the California State Bar Association only. Prior to the selection of the arbitrator and submission of the grievance for hearing by an arbitrator, the Director of Personnel shall informally review the grievance and determine whether said grievance may be adjusted to the satisfaction of the parties. The Director of Personnel shall have ten (10) working days in which to review and seek amicable resolution of the grievance.

1. Selection of Arbitrator

If the required steps of the grievance procedure have been exhausted and the grievance remains unresolved and is subject to arbitration, the arbitrator may be selected by mutual agreement between the Director of Personnel and the grievant or his/her representative. However, should the parties fail to mutually agree on an arbitrator they shall make a joint request of the State Conciliation Service for a list of five qualified arbitrators. The arbitrator shall be selected from the list by the parties alternately striking names with the first strike determined by chance, until only one name remains, and that person shall serve as arbitrator.

2. Arbitration Issues

The parties shall, within 15 working days following the informal review of the Director of Personnel, exchange in writing their understanding of the questions to be submitted to arbitration. Thereafter, the parties to the arbitration shall use their best efforts to exchange a written summary of the evidence they intend to offer and to reach agreement on and reduce to writing the question or questions to be submitted to arbitration. The agreed upon question or questions, if agreement is reached, together with the exchanged summaries of evidence and a list of witnesses to be used by each side, shall be submitted to each other and the arbitrator no later than five (5) working days prior to the arbitration hearing.

3. Arbitration Expenses Shared

The cost of employing the arbitrator shall be borne equally by the parties to the arbitration. All other costs such as, but not limited to, attorney's fees shall be borne only by the party incurring that cost. If both parties agree to the use of a court reporter, or if the arbitrator requires the use of a court reporter, the cost of the court reporter shall be shared equally. Absent mutual agreement the side requesting use of the court reporter shall absorb the cost. The cost of the transcript, if one is prepared, shall be absorbed by the party requesting the transcript, unless both parties mutually agree to share the cost of the transcript. If the arbitrator requests that a copy of the transcript be prepared both parties shall share the cost of the transcript.

4. Duty of Arbitrator

The arbitrator shall conduct an informal hearing, and any other meetings or investigations as are appropriate in his/her judgment. The arbitrator shall not have the right to amend, modify, nullify, ignore, add to, or subtract from the provisions of the Memorandum of Understanding, County Ordinance, resolution, or written departmental policy. He/she shall consider and make a decision with respect to only the specific issue(s) submitted, and shall not have authority to make a decision on any other issue not so submitted. In the event the arbitrator finds a violation of the Memorandum of Understanding, applicable State or Federal law, County Ordinance, board resolution or written departmental policy, he/she shall decide the appropriate resolution. The arbitrator shall have no authority to substitute his/her judgment for that of the County as to any matter within the County's discretion. The decision and award of the arbitrator shall be based solely upon the evidence and arguments presented to the arbitrator by the respective parties.

Proposals to add to or change the Memorandum of Understanding or written agreements or addenda supplementary hereto shall not be arbitrable and no proposal to modify, amend or terminate this Memorandum of Understanding, nor any matter or subject arising out of or in connection with such proposals, may be referred to arbitration under this section.

5. Binding Decision

The decision of the arbitrator rendered consistent with the terms of the Memorandum of Understanding, applicable State or Federal law, County ordinance, resolution, or written departmental policy shall be binding upon the employee, the employee's duly recognized employee organization and the County.

Based upon significant financial impact of the arbitrator's decision upon

the County, within 15 working days of receipt of the arbitrator's decision the County may request that the Union meet with the County to discuss the financial impact of the decision. The Union agrees to meet and consult with the County over the impact upon the County of the decision.

Absent agreement between the parties to modify or mitigate the impact of the arbitrator's decision, the decision of the arbitrator shall be final and binding on the parties.

6. Arbitrator's Decision Due

Unless the parties agree otherwise, the arbitrator shall render the decision in writing within 30 days following the close of the hearing to the Director of Personnel. The Director of Personnel shall immediately provide a copy of the decision to the employee, the employee's duly elected representative and the Department Head. If requested by either party, the decision shall be accompanied by findings of fact and conclusions of law.

7. Non-employee Organization Representation

The employee must obtain prior written approval from Stanislaus County District Attorney Investigators Association to elect and proceed to arbitration. In the event the employee obtains the written approval and the employee chooses to represent himself/herself, or arranges for representation independent of the recognized employee organization, including assumption of the costs of arbitration as provided in subsection 3 herein, the recognized employee organization shall have the right to be a party to such proceeding for the sole purpose of protecting the interests of its members under the terms of the Memorandum of Understanding. The employee organization shall be bound by the decision of the arbitrator.

Prior to engaging the services of an arbitrator or court reporter, the individual shall make a deposit covering each day of arbitration and certify that he or she is individually responsible for the costs of the arbitrator and court reporter, and that the County will have no responsibility to pay for the individual's share of costs as specified in the grievance and arbitration procedure. An arbitrator shall have no jurisdiction to order that the County assume responsibility for paying an individual's share of grievance and arbitration costs.

DISCIPLINE OF PERMANENT CLASSIFIED EMPLOYEES

3.28.010 Causes for discipline.

An employee in the classified service who has permanent status shall be subject to the disciplinary action pursuant to this chapter. Each of the following shall constitute cause for discipline:

- A. Omission or willful misrepresentation of a material fact or other fraud in securing employment;
- B. Incompetence;
- C. Inefficiency;
- D. Inexcusable neglect of duties;
- E. Insubordination;
- F. Dishonesty;
- G. Improper use of drugs, including (1) drunkenness on duty, (2) use of drugs while on duty, (3) incapacitation for proper performance of duties by prior use of drugs. The term "drugs" shall mean controlled substances as defined in Division 10 (commencing with Section 11000) of the California Health and Safety Code, and shall also mean alcohol;
- H. Unexcused absence from duty, including but not limited to, participation in unlawful strikes or other job actions, such as sick-ins or slow-downs;
- I. Conviction of a felony or conviction of a misdemeanor involving moral turpitude. A plea or verdict of guilty, or a conviction following a plea of nolo contendere, to a charge of a felony or any offense involving moral turpitude is deemed to be a conviction within the meaning of this subsection;
- J. Discourteous treatment of the public or other employees;
- K. Willful disobedience;
- L. Misuse of county property;
- M. Inconsistent, incompatible or conflicting employment, activity or enterprise;
- N. Violation of a departmental rule;

- O. Other failure of good behavior either during or outside of duty hours which is of such a nature that it causes discredit to the employee's department or employment. (Prior code § 2-240).

3.28.020 Notice of intended discipline.

Prior to discharging, suspending or reducing a permanent employee in rank or compensation for disciplinary purposes, the department head or designee shall:

- A. Review the proposed action with the personnel director;
- B. Prepare and serve a written notice reviewed by the county counsel to inform the employee of the intended action, the reasons therefor, and the right to respond to the department head intending to impose the discipline. The notice shall identify the materials on which the action is based with sufficient certainty as to permit inspection of them by the employee. A copy of the intended charges be attached to the notice;
- C. The employee, given notice of intended disciplinary action, may within seven days after service of the notice, respond to the department head either orally or in writing. The employee shall not be entitled to a formal hearing with examination of witnesses but he may present statements by himself, written statements of any witness and other documentary material. He may be represented by another in presenting his response. The department head shall fairly and impartially consider the employee's response and shall thereafter: (1) impose the intended disciplinary action; (2) notify the employee that the intended disciplinary action will not be imposed; or (3) amend the charges. In the event the department head substantially amends the intended charges or punishment, he shall be given another notice as provided in subsection B of this section. (Ord. CS 557 § 39, 1994; prior code § 2-241).

3.28.030 Notice of action and appeal.

In the event of the department head determines to discharge, suspend or reduce in rank or compensation a permanent employee after completing the procedures provided in Section 3.28.020, he shall serve upon the employee an order in writing stating (A) the nature of the disciplinary action, (B) the effective date of the action, (C) the causes therefor, (D) the specific acts or omissions upon which the causes are based, stated in ordinary and concise language and (E) the right of the employee to appeal. The employee acted against may, within seven days after service of the order, appeal the action of the department head. If the employee fails to appeal within the time specified, or subsequently withdraws his appeal, the punitive action taken by the department head shall be final. An appeal shall be in writing, shall be filed with the personnel director and shall contain an answer to each charge in the order. The answer shall include any objections the employee may have as to the form or substance of the order or the procedures followed by the department head. The personnel director shall forthwith transmit the order and appeal to the employee disciplinary proceedings hearing board for hearing. The hearing board shall, within a reasonable time for the filing of the appeal, commence the hearing thereof, and shall notify the interested parties of the time and place of hearing at least five days in advance thereof. (Prior code § 2-242).

3.28.040 Amendment of order.

- A. At any time before the hearing, the department head may file with the employee disciplinary proceedings hearing board an amended or supplemental order, which shall be served upon the employee. The hearing board shall afford the employee a reasonable opportunity to prepare his defense to the amended or supplemental order but he shall not be entitled to file a further answer unless the hearing board in its discretion so orders. Any new charges shall be deemed denied by the employee. At any time before the matter is submitted for decision, the hearing board may order or permit amendments to the order or answer.

- B. The hearing board may offer amendment of the order after submission of the case for decision. Each party shall be given notice of the intended amendment and opportunity to show that he will be prejudiced thereby unless the case is reopened to permit the introduction of additional evidence. If such prejudice is shown, the hearing board shall reopen the case to permit the introduction of additional evidence. (Prior code § 2-243).

3.28.050 Notice or order service.

Whenever reference is made in this chapter to service of any notice or order, such service shall be accomplished either by handing a copy thereof to the employee or by mailing a copy to the employee at his last known address by registered or certified mail. It shall be presumed that a properly addressed letter is served on the day following the day on which the letter was mailed. The department head shall promptly furnish the personnel director with a copy of each notice or order and a statement showing by whom, the manner and the date the notice or order was served. (Prior code § 2-244).

3.28.060 Hearing board and hearing officer.

- A. The chairman of the board of supervisors shall appoint a three-member disciplinary proceedings hearing board to hear appeals pursuant to this chapter. The hearing board shall consist of a member of the State Bar of California, who shall act as chairman, a county department head and an employee. Proposed members shall be selected as follows:
 - 1. The personnel director shall submit the name of a member of the State Bar of California who shall not be a member of the county service.
 - 2. The personnel director shall submit the name of a head of a department of the county.
 - 3. Upon the request of the personnel director, each recognized employee organization shall, within five working days, nominate a permanent full-time employee of the county, and the personnel director shall submit the name of the employee chosen by lot, provided that if a recognized employee organization fails to nominate an employee, the personnel director shall do so. In the event the appellant is from the same department as a member of the appeal board, the personnel director shall submit another name for appointment to replace such member for that case only. The term of each member shall end on December 31st of each year, but a member shall continue to act on any appeal filed before that date. Two members of the appeal

board shall constitute a quorum, provided, however, that the personnel director or the chairman of the appeal board may request the temporary appointment of a member to replace a member who is or will be unavailable on the scheduled hearing date.

- B. Upon written agreement of the county and the appellant made at any time before the hearing board is convened, the appeal shall be heard and decided by the chairman of the appeal board as a hearing officer. The rules and procedures set forth in this chapter for hearing by a hearing board shall also apply to a hearing by a hearing officer. (Prior code § 2-245).

3.28.070 Hearing rules.

At a hearing, both the appealing employee and the department head whose action is reviewed shall have the right to be heard publicly, to be represented by counsel and to present evidentiary facts. The parties may agree to a hearing closed to the public, and the hearing board may at any time exclude any person who may be a witness in the case under consideration. The hearing shall be informal and the hearing board shall not be bound by any of the rules of evidence governing trial procedure in state courts. In arriving at a decision, the hearing board may consider any prior county disciplinary action including any letters of reprimand filed with the county personnel department. The hearing board shall make an official decision either affirming, modifying, or revoking the order. The decision shall contain findings of fact which may be stated in the language of the pleadings or be reference thereto. A copy of the written decision shall be transmitted to the department head and the personnel director. The personnel director shall serve a copy of the decision upon the employee, and shall notify the employee that the time within which judicial review must be sought is governed by California Code of Civil Procedure Section 1094.6. A copy of the decision shall be placed in the employee's personal history file. The decision of the hearing board shall be final. (Prior code § 2-246).

3.28.080 Immediate termination.

Notwithstanding the provisions of Section 3.28.020, the department head may discharge a permanent employee without prior notice if immediate termination is essential to avert harm to the county or to the public. In such case, the notice of discharge shall inform the employee of his right to reconsideration by the department head who shall follow the procedures of Section 3.28.020, and where appropriate shall follow the procedures of Section 3.28.030. (Prior code § 2-247).

3.28.090 Measures pending final determination.

The department head may, while intended disciplinary action is pending, and with prior review by the personnel director and the chief executive officer, take one or more of the following measures:

- A. Defer the imposition of the punishment until the final order of the hearing board;
- B. Place the employee on leave of absence with compensation;
- C. With the concurrence of any department head involved, require the employee to perform such duties as may be assigned in the same or another county department with no reduction in

compensation. Reassignment without the consent of the employee shall not exceed a period of ninety days if accusations against the employee are under investigation, but such assignment may continue until the action becomes final if the employee has been given notice of discharge;

- D. Suspend the employee without pay if accusations against the employee are under investigation, and the accusations are such that, if true, immediate removal is essential to avert harm to the county or to the public, provided: (1) the employee shall be accorded the rights provided by this chapter, and may appeal the order of suspension to the hearing board at any time during the period of suspension; (2) the period of suspension without compensation shall not exceed forty-five days; (3) that in the event the employee is not served with notice of intended charges during the period of suspension, the employee shall be reinstated in county service as of the initial date of suspension; (4) that in the event the punitive action taken against the employee does not result in termination of employment, the employee shall be restored to county service for the period of the preliminary suspension and any disciplinary suspension or reduction in rank or compensation ordered or approved by the hearing board shall commence on or after the date of the punitive action by the department head. The department head may discontinue an employee's leave of absence with compensation or his suspension without compensation giving the employee forty-eight hours' notice in writing to return to duty. (Ord. CS 557 § 40, 1994; prior code § 2-248).

3.28.100 Maximum suspension.

No disciplinary suspension shall be imposed for any period exceeding forty-five days and the order of suspension shall expressly state, in addition to the reasons therefor, the date of the commencement and expiration of suspension. (Ord. CS 107 § 1, 1985; prior code § 2-249).

3.28.110 Hearing procedure.

The hearing shall proceed as follows:

- A. The hearing board may adopt rules of procedure. The personnel director shall be ex officio secretary to the hearing board, and the personnel director shall be authorized to issue subpoenas, make necessary orders and administer oaths in connection with the proceedings of the hearing board. Any person failing to obey a subpoena, or subpoena duces tecum, or to be sworn and testify, shall be deemed to be in contempt of the hearing board and the hearing board shall have the power to take such proceedings and impose such punishment thereof as may be taken by the board of supervisors pursuant to Title 3, Division 2, Part 2, Chapter 1, Article 9 (Sections 25170 through 25176) of the Government Code.
- B. The personnel director shall cause the proceedings to be recorded by any method he finds to be appropriate. Any person may purchase all or part of the record provided the request therefor is made within ninety days of the date of service of the final decision of the employee, the department head or the personnel director shall have a right to purchase a transcript of a hearing held in closed session. A request for the record shall be accompanied by payment of the estimated cost thereof as determined by the personnel director, and the

person making the request shall be obligated to pay the full cost prior to delivery of the transcript.

- C. The burden of proof shall be on the head of the department issuing the disciplinary order. The quantum of proof required to sustain such action shall be preponderance of the evidence.
- D. At the hearing the employee may be examined under Section 776 of the California Evidence Code. Failure of the employee to appear at the hearing or failure to testify if called as a witness shall be deemed a withdrawal of the employee's appeal and the action of the department head shall be final.
- E. The hearing board may affirm or revoke the action taken by the department head or may modify such action to a less severe punishment. The hearing board may order the employee returned to his/her position either as of the date of the punitive action by the department head or as of such later date as the hearing board may specify. If the hearing board shall revoke or modify the order of the department head, the appealing employee shall be granted forthwith all rights and privileges pertaining to county service in accordance with the order of the hearing board. (Ord. CS 557 § 41, 1994; prior code § 2-250).

3.28.120 Petition to set aside resignation.

In the event a person claims his resignation was given by reason of mistake, fraud, duress, undue influence, or that for any other reason it was not his free and voluntary act, he may submit a written petition to the personnel director to set aside his resignation and such petition shall be treated in the same manner as an appeal from an order for discharge; provided, however, that no such petition shall be considered by the hearing board unless it is filed with the personnel director within thirty days after (A) the last date upon which services to the county are rendered; or (B) the date the resignation is tendered to the appointing power, whichever is later. (Prior code § 2-252).

Binding Arbitration - Discipline

Binding Arbitration by an Outside Arbitrator in Lieu of Section 3.28.060 Hearing Board and Hearing Officer of The Stanislaus County Discipline Ordinance.

A. Submission of the Disciplinary Appeal to the Hearing Board or Hearing Officer

The parties agree that the employee may elect to have the disciplinary matter heard by the current discipline appeals board as provided by Stanislaus County Code Section 3.28.060, "Hearing board and hearing officer" in lieu of binding arbitration by an outside arbitrator. Should the employee elect to utilize the hearing board or hearing officer as provided by Section 3.28.060 of the County Code, the decision of the hearing board or hearing officer shall be final and the employee shall forego the option of arbitration by an outside arbitrator. The employee agrees to assume half of the cost of the hearing officer.

B. Submission of the Disciplinary Appeal to Binding Arbitration

1. Notice of Action and Appeal

In the event the Department Head determines to discharge, suspend or reduce in rank or compensation a permanent employee after completing the procedures provided in section 3.28.020, he shall serve upon the employee an order in writing stating (A) the nature of the disciplinary action, (B) the effective date of the action, (C) the causes therefore, (D) the specific acts or omissions upon which the causes are based, stated in ordinary and concise language, and (E) the right of the employee to appeal. The employee acted against may, within seven (7) days of service of the order, appeal the action of the Department Head. If the employee fails to appeal within the time specified, or subsequently withdraws his/her appeal, the punitive action taken by the Department Head shall be final.

An appeal shall be in writing, shall be filed with the Director of Personnel, shall request specifically the use of binding arbitration in lieu of the discipline appeals board, and shall contain a complete answer to each charge set forth in the order. The answer shall include any objections the employee may have as to the form or substance of the order or the procedures followed by the Department Head. **The employee must obtain prior written approval from Stanislaus County District Attorney Investigators Association to elect and proceed to arbitration.**

2. Selection of Arbitrator

If the employee elects to have the disciplinary proceeding heard by an arbitrator, the arbitrator may be selected by mutual agreement between the Director of Personnel and the employee or his/her representative. However, should the parties fail to mutually agree on an arbitrator, they shall make a joint request of

the State Conciliation Service for a list of five (5) qualified arbitrators. The request will include arbitrator names who are current members of the California State Bar Association only. The arbitrator shall be selected from the list by the parties alternately striking names with the first strike determined by chance, until only one (1) name remains, and that person shall serve as arbitrator.

The Director of Personnel shall forthwith transmit the order and appeal to the arbitrator for hearing. The arbitrator shall, within a reasonable time of the filing of the appeal and the election of the arbitrator, commence the hearing thereof, and the Director of Personnel shall notify the interested parties of the time and place of hearing at least five (5) days in advance thereof.

3. Arbitration Issues

The parties shall exchange summaries of evidence and a list of witnesses to be used by each side shall be submitted to each other and the arbitrator no less than five (5) working days prior to the arbitration hearing.

4. Arbitration Expenses Shared

The cost of employing the arbitrator and the court reporter for all discharges, excluding the transcript, shall be borne equally by both parties to the arbitration. The cost of the transcript shall be covered as provided by County Code Section 3.28.110, subsection A, "Hearing Procedure". All other costs such as, but not limited to, attorney's fees shall be borne by the party incurring that cost. If both parties agree to the use of a court reporter other than for discharges, or the arbitrator requires the use of a court reporter, the cost of the court reporter shall be shared equally.

5. Duty of Arbitrator

The duties of the arbitrator shall be those of the hearing board as referred to throughout the Stanislaus County Discipline Ordinance including, but not limited to, Sections 3.28.070 "Hearing rules" and 3.28.110 "Hearing procedure".

6. Arbitrator's Decision Due

Unless the parties agree otherwise, the arbitrator shall render the decision in writing within thirty (30) days following the close of the hearing. A copy of the written decision shall contain findings of fact which may be stated in the language of the pleadings or be referenced thereto. If requested by either party, the decision shall be accompanied by findings of fact and conclusions of law.

A copy of the written decision shall be transmitted to the Department Head and the Director of Personnel. The Director of Personnel shall cause to be served a copy of the decision upon the employee. Service by mail at the employee's last

known address shall be sufficient for purposes of this section. A copy of the decision shall be placed in the employee's personal history file. The decision of the arbitrator shall be final and binding on both parties.

7. Non-Employee Organization Representation

The employee must obtain prior written approval from Stanislaus County District Attorney Investigators Association to elect and proceed to arbitration. In the event that an employee gets the written authorization and chooses to represent himself/herself, or arranges for representation independent of the recognized employee organization, the employee assumes the costs of the hearing officer or arbitration as provided herein.

This includes that the cost of employing the arbitrator and the court reporter for all discharges, excluding the transcript, shall be borne equally by both parties to the arbitration. The cost of the transcript shall be covered as provided by County Code Section 3.28.110, subsection A "Hearing Procedure". All other costs such as, but not limited to, attorney's fees shall be borne only by the party incurring that cost. If both parties agree to the use of a court reporter other than for discharges, or the arbitrator requires the use of a court reporter, the cost of the court reporter shall be shared equally.

Prior to engaging the services of an arbitrator or court reporter, the individual shall make a deposit covering each day of arbitration and certify that he or she is individually responsible for the costs of the arbitrator and court reporter, and that the County will have no responsibility to pay for the individual's share of costs as specified in the grievance and arbitration procedure. An arbitrator shall have no jurisdiction to order that the County assume responsibility for paying an individual's share of grievance and arbitration costs.

If the employee elects to utilize the hearing officer or panel in lieu of arbitration, the employee agrees to assume half the cost of the hearing officer.