

**City of Fayetteville Staff Review Form**


**2021-0852**

**Legistar File ID**

**12/7/2021**

City Council Meeting Date - Agenda Item Only

N/A for Non-Agenda Item

Mike Reynolds, Chief of Police 

10/28/2021

POLICE (200)

**Submitted By**

**Submitted Date**

**Division / Department**

**Action Recommendation:**

Council approves a resolution adopting Fayetteville Police Policy 16.2.3, Temporary Light Duty

**Budget Impact:**

Account Number	Fund
Project Number	Project Title
Budgeted Item? <u>No</u>	Current Budget \$ -
	Funds Obligated \$ -
	Current Balance <span style="border: 1px solid black; padding: 2px;">\$ -</span>
Does item have a cost? <u>No</u>	Item Cost \$ -
Budget Adjustment Attached? <u>No</u>	Budget Adjustment \$ -
	Remaining Budget <span style="border: 1px solid black; padding: 2px;">\$ -</span>

V20210527

**Purchase Order Number:** \_\_\_\_\_

**Previous Ordinance or Resolution #** \_\_\_\_\_

**Change Order Number:** \_\_\_\_\_


**Approval Date:** \_\_\_\_\_

**Original Contract Number:** \_\_\_\_\_

**Comments:**



**MEETING OF DECEMBER 7, 2021**

**TO:** Mayor and City Council  
**FROM:** Mike Reynolds, Chief of Police   
**DATE:** October 28, 2021  
**SUBJECT:** **Police Department Policy**

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**RECOMMENDATION:**

Council approves a resolution adopting Fayetteville Police Policy 16.2.3, Temporary Light Duty.

**BACKGROUND:**

The changes to this policy were based on threats of violent to police officers at the Fayetteville Police Department.

**DISCUSSION:**

Fayetteville Police Policy 16.2.3., Temporary Light Duty, is an existing policy that contains changes to reflect recommendations for new department protocols.

**BUDGET/STAFF IMPACT:**

This policy will not have any impact on budget or staff at this time.

**Attachments:**

Fayetteville Police Policy 16.2.3, Temporary Light Duty

# ***POLICIES, PROCEDURES, AND RULES***

<b>Subject:</b> 16.2.3 Temporary Light Duty	<b>Effective Date:</b>
<b>Reference:</b>	Version: 2 3
<b>CALEA:</b> 11.5.1	No. Pages: 4

## **I. PURPOSE**

It is the purpose of this policy to establish the authority for temporary light-duty assignments and procedures for granting temporary light duty to eligible officers and civilian personnel within this agency. [CALEA 11.5.1]

## **II. POLICY**

Temporary light-duty assignments, when already in existence within the Fayetteville Police Department (FPD), are for officers and other eligible personnel. For medical issues that are work related, if the police department does not have light duty assignments available, the city's Human Resources Department will act as a clearinghouse in locating a temporary light duty assignment elsewhere in the city where the police department employee will receive his/her normal pay from the police department while performing light duty in another city department/division. For medical issues that are not work related, if the police department does not have light duty assignments available, the employee will be off work and may utilize his/her accrued leave banks as needed.

Use of temporary light duty can provide employees with an opportunity to remain productive while convalescing as well as provide a work option for employees who may otherwise risk their health and the safety of others by remaining on duty when physically or mentally unfit for their regular assignment. Therefore, it is the policy of this agency that eligible personnel are given a reasonable opportunity to work in temporary light-duty assignments where available and consistent with this policy.

## **III. DEFINITIONS**

**Eligible Personnel:** For the purposes of this policy, any sworn or civilian member of this department suffering from medically certified illness, injury or disability requiring treatment of a licensed health-care provider and who, because of medical issues is temporarily unable to perform the regular assignment but is capable of performing alternative assignments.

**Family and Medical Leave Act (FMLA):** Federal law providing for up to 12 weeks of unpaid annual leave for workers. FMLA is used concurrently, not in addition to paid leave provided by this agency, due to illness, injury or certain other family conditions/situations.

## IV. PROCEDURES

### A. General Provisions

1. Temporary light-duty positions are limited in number and variety. Assignments may be changed at any time.
2. This policy in no way affects the privileges of employees under provisions of the Family and Medical Leave Act, Fair Labor Standards Act, American with Disabilities Act, or other federal or state law.
3. Assignment to temporary light duty shall not affect an employee's pay classification, pay increases, promotions, retirement benefits or other employee benefits.
4. No specific position within this agency shall be established for use as a temporary light-duty assignment, nor shall any existing position be designated or utilized exclusively for personnel on temporary light duty.
5. Light-duty assignments are strictly temporary and normally should not exceed six months in duration. After six months, personnel on temporary light duty who are not capable of returning to their original duty assignment shall:
  - a. Present a request for extension of temporary light duty, with supporting documentation, to the Chief of Police or his/her designee.
  - b. Light duty assignments will not continue past the time the employee reaches a level of maximum medical improvement. At that time, the employee should pursue other options as provided by employment provisions of this agency or federal or state law.
6. **Officers Sworn employees** on temporary light duty are prohibited from engaging in outside employment in which they may reasonably be expected to perform law enforcement functions for which they have been determined physically or mentally unable to perform on behalf of this department and that form the basis for their temporary light-duty assignment.
7. Depending upon the nature and extent of the disability, an **officer-sworn employee** on temporary light duty shall be prohibited or restricted from:
  - a. Wearing the department uniform or **attire that represents the employee as a sworn employee of the department, which includes displaying the FPD badge, patch, rank, etc.**
  - b. **Displaying the police badge,**
  - c. **Driving a marked police vehicle,**
  - d. Carrying their **service-weapon department-issued firearm, or**
  - e. **Are otherwise limited in employing police powers as determined by the Chief of Police so long as such limitation is consistent with the provisions of IV-B and IV-C of the policy.**
8. **The Chief of Police or his/her designee may approve a sworn employee to carry a department-issued firearm on duty while on light duty status.**

- a. The sworn employee must provide a letter from the employee's physician that supports his/her ability to carry the firearm as outlined in their essential job duties,
- b. The sworn employee shall continue to qualify with their weapon, and
- c. The firearm must be concealed at all times in a department approved holster.

Sworn employees will not be approved to carry a firearm when the employee has an injury that inhibits the safe use of a firearm.

9. Light-duty assignments shall not be made for disciplinary purposes.
10. If an employee refuses a temporary light-duty assignment that is supported by and consistent with the recommendations of an attending physician or certified health-care provider, workers compensation may deny the employee's ~~may (by operation of law) be denied workers compensation~~ disability payments for work related medical issues, and ~~in any event~~ the employee will be sent home and will normally need to utilize his/her accrued leave benefits in order to continue being paid.

#### B. Temporary Light-Duty Assignments

1. Temporary light-duty assignments may be drawn from a range of technical and administrative areas that include but are not limited to the following:
  - a. Administrative functions
  - b. Clerical Functions
  - c. Desk Assignments
  - d. Report Taking
  - e. Communications
  - f. Property/Evidence
2. In addition to other considerations included in this policy, decisions on temporary light-duty assignments shall be made based upon the availability of an appropriate assignment given the applicant's knowledge, skills and abilities; availability of light-duty assignments; and the physical limitations imposed on the officer.
3. Every effort shall be made to assign officers employees to positions consistent with their rank and pay classifications. However, where deemed appropriate, personnel may be assigned to positions designated for personnel of lower rank or pay classification. Officers employees thus assigned shall:
  - a. Retain the privileges of their rank but shall answer to the supervisory officer of the unit to which they are assigned with regard to work responsibilities and performances; and
  - b. Retain the pay classification and related benefits of the position held prior to their assignment to temporary light duty.

#### C. Requests for and Assignment to Temporary Light Duty

1. Requests for temporary light-duty assignments shall be submitted to the employee's immediate supervisor. Requests must be accompanied by a statement of medical certification to support either by the treating physician or other licensed health-care provider. The certificate must include an assessment of the nature and probable

duration of the disability and any restrictions. Such medical documents should be then forwarded by the department to Human Resources for filing in the employee's secure medical file.

2. The request for temporary light duty and a copy of the physician's statement shall be forwarded through the chain of command to the Chief of Police
  - a. Subject to applicable laws pertaining to workers compensation, **Health Insurance Portability and Accountability Act (HIPAA)**, and the Family and Medical Leave Act, this department may require the employee to submit to an independent medical examination by a **health-care** provider.
3. All employees with work related medical issues should be assessed for potential light duty assignments. Any employee who has not requested temporary light duty may be recommended for such assignment by submission of a request from the employee's immediate supervisor. Such a request must be accompanied by an evaluation of the employee conducted by a competent medical authority expressing the need for temporary light duty or by a request/order for a medical or psychological fitness-for-duty examination. Notice shall be provided to the employee of the proposed temporary light-duty assignment together with justification for the recommendation.
4. As a condition of continued assignment to temporary light duty, officers shall be required to submit physical assessments of their condition as specified by a competent medical authority.

D. Pregnant **Officers** **employees**

1. Pregnant **officers** **employees** are eligible for temporary light-duty assignments as available and as appropriate to their physical capabilities, **restrictions** and well-being.
2. Where appropriate temporary light-duty assignments are unavailable, pregnant **employees** **officers** may pursue other forms of medical, disability or family leave (FMLA) as provided by this agency, by the City's offered insurance benefits, and state or federal law.
3. Pregnant **employees** **officers** shall submit physician's medical certificates that document:
  - a. The **employee's** **officer's** physical ability to perform the present assigned duties,
  - b. The physician's appraisal that the type of work being performed will not injure the **employee** **officer** or her expected child, and
  - c. Any recommended duty restrictions or modifications including temporary light duty.
4. Pregnant **employees** **officers** shall be permitted to continue working on regular duty or temporary light-duty assignments as long as they present physician certificates or until such time as a physician recommends that work be curtailed.