

**MEMORANDUM  
OF  
UNDERSTANDING**

**BETWEEN**

**FRESNO COUNTY  
DISTRICT ATTORNEY  
INVESTIGATORS ASSOCIATION**

**UNIT 10**

**AND**

**THE COUNTY OF FRESNO**

**NOVEMBER 5, 2018 – NOVEMBER 1, 2020**

# UNIT 10

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## INTRODUCTION/PURPOSE

We, the Undersigned, duly appointed representative of the County of Fresno, hereinafter referred to as "County" and Fresno County District Attorney Investigators Association, Unit 10, hereinafter referred to as "Association" having met and conferred in good faith, do hereby jointly prepare and execute the following written Memorandum of Understanding (MOU) for representation Unit 10. It is the purpose of the MOU to promote and provide for harmonious relations, cooperation, and understanding between management and the employees covered herein and to provide an orderly and equitable means of resolving any misunderstanding or differences which may arise under this MOU.

### SALARIES

<u>Classification</u>	<u>Current Bi-Weekly Salary Range</u>	<u>5% Increase Eff 11/5/18</u>	<u>5% Increase Eff 11/4/19</u>
District Attorney Investigator	2217	2328	2444
Senior District Attorney Investigator	2629	2760	2898

### RECOGNITION

Pursuant to the provisions of the Fresno County Employee Relations Ordinance the certification of the Fresno County Civil Service Commission, and appropriate State law, the County hereby recognizes the Association as the exclusive representative for the classifications of District Attorney Investigator and Senior District Attorney Investigator.

Should any classification be certified for inclusion by the Fresno County Civil Service Commission during the term of this MOU, the Employee Relations Ordinance, section 3.12.240 governs.

### REPRESENTATION RIGHTS

The Association shall have the right to meet and confer in good faith with the County regarding wages, hours, and other terms and conditions of employment for representation Unit 10, within the scope of representation.

The scope of representation shall include all matters relating to employment conditions and employer-employee relations, including but not limited to wages, hours and other terms and conditions of employment, except, however, that the scope of representation shall not include the consideration of the areas enumerated as exclusive County rights in the Management Rights Article of this MOU.

### RELEASE TIME

The Association may request that a reasonable number of employees, who serve as official representatives of the Association, be released from work, with prior department head approval, without loss of compensation when meeting and conferring with the County where matters within the scope of representation are being considered.

The Association shall submit a written request for release time to the department head, or designee, at least seventy-two (72) hours in advance of the meeting. The use of County time for this purpose shall not be excessive, nor shall it interfere with the performance of County services as determined by the department head.

### **BULLETIN BOARDS**

The County shall provide space for and permit the installation of Association bulletin boards (or provide reasonable space on County bulletin boards) for official Association notices at each central work location. Such bulletin boards shall be maintained in accordance with provisions of the County Employee Relations' Ordinance.

No such bulletin boards shall be located in areas frequented by the public doing business with the County as determined by the County.

### **MEETING PLACE**

The County, at the Association's request, shall reasonably make available conference rooms and other meeting areas for the purpose of holding Association meetings during off-duty time periods provided space can be made available without interfering with County needs. The Association shall provide timely advance notice (72 hours) of such meetings. The Association also agrees to pay any additional cost of security, supervision, damage, and cleanup and shall comply with County regulations for assignment and use of such facilities.

### **OVERTIME PAY**

Employees of this Unit shall receive compensation in cash or compensatory time off as provided below for overtime worked, as defined herein. In determining overtime, only productive time (actual time worked) shall be used.

For employees of this Unit who are engaged in "law enforcement activities" as defined under provisions of the Fair Labor Standards Act (FLSA), overtime is BOTH:

Authorized work performed in excess of the normal work schedule (i.e., over eight (8), nine (9), ten (10), etc., hours per day), or over forty (40) hours in a workweek (from 12:01 a.m., Monday, through Midnight the following Sunday);

### **AND**

Authorized work performed in excess of eighty-six (86) hours in a work period under Section 7k of the FLSA. The work period is a fourteen-day (14) period commencing at 12:01 a.m., Monday and terminating at Midnight the second following Sunday. Consistent with other provisions of this MOU and the Fresno County Salary Resolution, overtime shall also include all authorized consecutive hours worked over eight (8) hours in a day and which extend into a new day. This provision shall include hours worked before or at the end of a normal work schedule. However, overtime paid in this setting shall not be included in any overtime/double-time computation for regularly assigned work hours on the new day.

All overtime shall be paid in cash unless the employee opts to receive compensatory time off. Overtime paid in cash shall be calculated at the rate of one and one-half (1½) the employee's base hourly rate of pay ("*County*" overtime), unless the time worked meets the definition of overtime under provisions of the FLSA; in the latter instance, overtime shall be calculated at the rate of one and one-half (1½) the employee's regular rate of pay, as defined by provisions of the FLSA ("FLSA" overtime). Should the calculated "FLSA" overtime be greater than the calculated "County" overtime, an adjusting entry (earn code 90- FLSA OT) shall be made.

### Double Time

Should an employee of this Unit be scheduled by management to work more than seven (7) consecutive work days, commencing on the eighth (8<sup>th</sup>) day, the employee shall be compensated at two (2) times his/her base hourly rate for each hour worked over eight (8) hours until such time as two (2) consecutive days off are provided by management. Compensatory time off may be elected subject to the sixty (60) hour maximum as described herein.

This payment shall only apply when the employee has been scheduled by management and ordered to work more than seven (7) consecutive work days and does not apply when the work is as a result of the employee volunteering.

To clarify which employees are volunteers, each current employee shall be provided a form upon which to waive eighth (8<sup>th</sup>) day overtime eligibility. Employees may either complete the form, thereby indicating waiver, or discard it. Employees who return the signed form shall not be entitled to double-time pay for the eighth (8<sup>th</sup>) consecutive day worked nor days thereafter.

The pay at two (2) times the base hourly rate may not be applicable, as determined by management, in cases of a state of emergency as specified in Chapter 2.44 of the Fresno County Ordinance Code.

All time worked on Saturdays or Sundays involving the out-of-county recovery of children, the extradition of persons in custody, and the retrieval of witnesses shall be paid at the rate of time and one-half (1½) the employee's current rate of pay regardless of the productive time provision of this article.

### Compensatory Time Off

Employees covered by this MOU may accrue a combined maximum of compensatory time off (CTO) and holiday balances up to a maximum of 84 hours (24 of which may be holiday accrual).

Employees may request to be paid in cash at any time for accrued hours. Use of CTO shall be at a time mutually agreed upon by the employee and District Attorney or his/her representative. CTO and holiday balances may be paid off annually in cash at a time selected by the District Attorney at his/her discretion. The District Attorney retains the right to pay all compensatory time off in cash to all employees covered by this provision immediately before the expiration of this MOU.

Employees shall not be allowed to accrue any additional hours until their combined hours fall below the maximum 84 hours. Additionally, prior to any promotion or departmental transfer, employees must either cash out or use all accrued CTO and Holiday Time Off balances.

### STAND-BY PAY

When employees covered under this MOU are ordered by the District Attorney or his/her designee to stand by for duty and restricted as to their movement while off duty, they shall be compensated at twenty-five percent (25%) of their base salary for such time (one-half hour minimum).

### CALL-BACK PAY

An employee shall be eligible for call-back pay when all of the following conditions are met:

The employee is unexpectedly ordered to return to work by his/her department head and does, in fact, return to work.

The order to return is given to the employee following termination of his/her normal shift and his/her departure from his/her work location.

Such return to work occurs within twenty-four (24) hours of when the order is given, but not less than two (2) hours prior to the established starting time of the employee's next regular shift.

Compensation for call-back shall be the greater of:

Minimum of two (2) hours overtime; or

Time spent at the work location.

Under these circumstances, the employee shall be paid at the rate of time and one-half (1½) his/her base hourly rate of pay, unless the actual hours worked on a call-back exceed eighty-six (86) hours in a work period under FLSA provisions for employees specified in the Overtime Pay article of this MOU or over forty (40) hours in the FLSA work period for employees specified in the Overtime Pay article. In these latter circumstances, the employee shall be paid at the rate of time and one-half (1½) his/her regular hourly rate of pay, as defined by FLSA, effective beginning April 15, 1986.

Compensatory time off may be elected subject to the sixty (60) hour maximum.

Employees called back to duty under provisions of this article shall additionally be compensated at time and one-half (1½) their base hourly rate for thirty (30) minutes travel time.

### OFFICER INVOLVED SHOOTINGS/IN-CUSTODY DEATHS

1. Officer Involved Shooting assignments shall be at the discretion of the District Attorney;
2. When an Investigator (one per week/assignment) is assigned to the Officer Involved Shooting Team, the employee shall receive additional compensation at the rate of \$250 per weekly assignment regardless of the number of calls/incidents received during that time frame;

3. The Investigator on assignment shall be available 24/7, reachable by telephone and/or other communication device, fit to respond to incident locations immediately (i.e. refrain from activities which may impair his/her ability to perform assigned duties), and must be willing to respond to “no hostage” facilities.

### **4850 TIME**

When an employee who is governed by provisions of Labor Code 4850 sustains an injury or illness that is alleged to have arisen out of the course of his/her duties, and the injury or illness necessitates absence from duty, he/she shall have such time recorded as “4850 Time”. The County’s Workers’ Compensation adjusters will then make an immediate determination as to whether the injury/illness is in fact job-related. In the event the County’s Workers’ Compensation adjuster informs the County that the illness or injury may not have been job-connected, the employee will be taken off of the “4850” status and the employee’s related time off will be adjusted retroactively to reflect Annual Leave/sick leave or compensatory time off use and so recorded prospectively until a final determination is made as to whether or not the illness or injury is considered compensable under workers’ compensation guidelines.

If the County’s Workers’ Compensation adjuster determines that the injury/illness is not considered compensable under workers’ compensation guidelines, and the employee has insufficient leave balances, it shall be the obligation of the employee to reimburse the County for such time that he/she was on 4850 status.

### **ASSOCIATION MEMBERSHIP/DUES**

Each new employee may or may not become an Association member at their option. A registry of signed forms shall be maintained in the Payroll Section of the Auditor-Controller/Treasurer-Tax Collector’s Office (A-C/T-TC).

The County shall deduct once each regular pay period, the amount of dues and/or fees, (as established by the Association) under the authority of an authorization card furnished by the County and signed and dated by the employee.

Said deduction, together with a written statement of the names with amounts deducted, shall be forwarded promptly to the Association office.

Subject to all provisions of the Employee Relations Ordinance of the County of Fresno, the County agrees to continue deducting dues and/or fees.

Association members may withdraw their membership a) annually during the month of June, b) when this MOU expires and there is no successor MOU/extension in effect, c) when the job classification is removed from the Unit. A notice of revocation of authority to withhold dues shall be filed with the Association and a withdrawal card shall be submitted to the Payroll Section of the A-C/T-TC for processing according to established A-C/T-TC procedures.

The Association shall be afforded full opportunity to meet and discuss membership with new employees employed in job classifications represented by the bargaining unit, at a time mutually agreed upon between the District Attorney and the Association, but by no means later than one (1) week after said employee(s) are sworn or commence employment.

## **ANNUAL LEAVE**

All employees covered by this MOU hired on or before October 9, 1983, will participate in the Annual Leave II (formerly known as New Annual Leave Plan) as governed by the Fresno County Salary Resolution, Section 600.

All employees covered by this MOU hired after October 9, 1983, will participate in the Annual Leave IV Plan as governed by the provision of Salary Resolution, Section 600.

## **BEREAVEMENT LEAVE**

Each employee occupying a permanent position shall be eligible for paid Bereavement Leave up to a maximum of twenty-four (24) hours (to begin no later than 15 working days after notification and, if non consecutive, to conclude no later than 30 calendar days from notification) per bereavement for the death of a qualifying relative. A qualifying relative shall be defined as the employee's: legally recognized spouse, mother, father, brother, sister, child (including California Health and Safety Code, Section 102950), grandmother, grandfather, or grandchild. Also qualifying shall be an employee's corresponding relative through their legally recognized spouse: spouse's mother, spouse's father, spouse's brother, spouse's sister, spouse's child (including California Health and Safety Code, Section 102950), spouse's grandmother, spouse's grandfather, or spouse's grandchild. Employees granted Bereavement Leave shall only be paid for any work hours regularly scheduled, but not worked.

Employees may request use of annual leave when the employee desires time off in excess of twenty-four (24) hours for bereavement-related purposes.

In determining the number of hours to be permitted for a bereavement, the department head will, in addition to other factors, consider potential interruption of service.

Employees taking Bereavement Leave shall submit a statement under penalty of perjury on a form provided by the County stating the name of the deceased, place of death, relationship to the employee, and circumstances showing that the time taken as Bereavement Leave was reasonably necessary in order for the employee to attend to any necessary family obligations.

## **COMPUTER PROGRAMMING MODIFICATIONS**

Notwithstanding any language in this MOU to the contrary, the respective articles of this MOU which will involve modifications to existing computer programs of the County shall not become effective until the beginning of the payroll period following the completion of such modifications. Furthermore, the provisions of this article shall not be used to extend the effective date of salary changes.

## **SAVINGS CLAUSE**

The provisions of this MOU are declared to be severable and if any section, subsection, sentence, clause, or phrase of this MOU shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses and phrases of this MOU, but they shall remain in effect, it being the intent of the parties

that this MOU shall stand notwithstanding the invalidity of any part. Should any portion of this MOU be found invalid or unconstitutional, the parties will meet and confer to arrive at a mutually satisfactory replacement for the portion found to be invalid or unconstitutional.

**PUBLIC SAFETY OFFICERS' PROCEDURAL BILL OF RIGHTS &  
APPEAL PROCEDURE – DISTRICT ATTORNEY'S OFFICE**

The County shall abide by the Public Safety Officers' Procedural Bill of Rights Act as defined in the California Government Code Section 3300 et seq. including any additions legislated by the state legislature during the term of this MOU.

Appeal Procedure

Employees to Whom Applicable - This procedure is applicable to all employees covered by this MOU.

Appealable Actions - This procedure may be used when an employee covered by this MOU alleges one (1) of the following actions has occurred and the employee wishes to appeal under Government Code Section 3300 et seq.

Receipt of a written reprimand.

Reduction in salary through an action taken that is not appealable under Personnel Rule 10.

Denial of promotion on grounds other than merit.

Reassignment for purposes of punishment.

Rejection during probation.

Appeal Procedure - Following are the steps an employee is to follow in order to secure a hearing as provided under Government Code Section 3300 et seq.

The affected employee shall submit a request in writing for a hearing no later than ten (10) calendar days following formal notification that an action described in 26.2 above has been or will be taken. The request is to be addressed to Chief of Investigations.

Upon receipt of the request for a hearing, a hearing panel will be selected by the parties. Selection to the panel will be as follows:

Management will appoint a District Attorney management representative who will act as the hearing officer.

The affected employee will appoint a member from the Fresno County District Attorney Investigators' Association.

Both parties will mutually select a third person from the District Attorney's staff.

The hearing officer shall schedule a hearing for the earliest date convenient to all parties.

The decision of the hearing panel will be a majority vote of the panel.

The conduct of the hearing shall be informal; rules of evidence shall not apply. Except as provided below, the specific conduct of the hearing shall be as determined by the hearing officer. The following rules shall apply in each hearing:

Subpoena may be issued by the hearing officer if necessary, at the request of either party.

Either party may have representation of his/her choice at the hearing.

Either party may request the use of a court reporter. The party who requests this service shall be responsible for paying for the services. Each party bears their own cost for transcripts of the hearing.

Either party may, in lieu of or additionally, mechanically record the hearing. No videotaping shall be allowed.

The hearing officer shall issue the findings and decision of the panel within five (5) working days of the hearing, unless all parties agree to a later date. The decision of the panel is advisory to the District Attorney who shall make the final decision. The decision of the panel may, if they deem it appropriate, incorporate a recommendation for relief or appropriate corrective action.

In appeals to reassignment when punishment is alleged, the panel will first determine whether or not the reassignment was for purposes of punishment. If the panel finds that the reassignment was for purposes of punishment, they will then determine whether or not the reassignment is to be effective.

### **SAFETY EQUIPMENT**

As department appropriations allow, the District Attorney shall issue employees covered by this MOU a cleaned or new "ballistic vest" and a cleaned or new "raid jacket".

Ballistic vests and raid jackets, when issued, become the responsibility of the individual employee to retain and maintain. The employee shall, upon separation for any reason from a deputized position, return the ballistic vest and raid jacket to the District Attorney. Employees who are unable to produce their ballistic vest and raid jacket for either return or inspection purposes shall have the full cost of a replacement deducted from their next regular paycheck.

Any newly hired employee covered by this MOU shall be issued a new ballistic vest within three (3) months from the employees' date of hire. Additionally, any ballistic vest issued by the District Attorney's Office, shall be replaced within a reasonable period of time after the manufacturers expiration date. Ballistic vests subjected to high use, wear and tear may be replaced earlier. Ballistic vests shall be replaced as determined by the District Attorney, consistent with department appropriations.

## HOLIDAYS

The County observes the following holidays for all members of this association:

- January 1 (New Year's Day)
- Third Monday in January (Martin Luther King Jr.'s Birthday)
- Third Monday in February (Washington-Lincoln's Day)
- March 31 (Cesar Chavez Day)
- Last Monday in May (Memorial Day)
- July 4 (Independence Day)
- First Monday in September (Labor Day)
- November 11 (Veteran's Day)
- Fourth Thursday in November (Thanksgiving Day)
- Friday following Thanksgiving Day
- December 25 (Christmas)

Every Monday following a Sunday which falls on January 1, March 31, July 4, November 11, or December 25.

Every Friday when such Friday immediately precedes January 1, March 31, July 4, November 11, or December 25.

### Holiday Pay Eligibility

Employees are eligible for holiday pay only if they are at work or on an approved paid leave on their last assigned shift immediately before or after the holiday. Employees claiming annual leave for illness purposes or sick leave on their last assigned shift immediately before or after a County holiday as set forth in Section 900 of the Fresno County Salary Resolution may be required to provide a statement from a California licensed physician setting forth the specifics which necessitated the employee's absence for illness or injury purposes in order to be eligible for holiday pay.

### Holiday Credit

If eligible, full-time employees shall receive eight (8) hours of holiday pay at their base hourly rate of pay for the holiday itself. If the employee works the holiday, the employee may elect to accrue the aforementioned eight (8) hours, in lieu of cash compensation. The combined balances of Holiday (maximum 24 hours) and Compensatory Time Off shall not exceed eighty-four (84) hours.

### Compensation for Time Worked on a Holiday

When employees in permanent positions in classifications eligible for overtime are required to work on a holiday as defined herein, the time so worked shall be compensated at the rate of one and one-half (1½) times the employee's base hourly rate of pay for the first eight (8) hours

worked. Holiday compensation shall include all consecutive shift hours worked when a major portion (greater than 50%) of the shift is worked on the holiday. Holiday compensation shall be limited to a single consecutive shift worked on the holiday. Holiday compensation is not included as Fair Labor Standards Act (hereinafter FLSA) overtime in the FLSA work period. Therefore, holiday compensation can be received in cash or as holiday accrual to a maximum of 24 hours. The combined balances of Holiday and Compensatory Time Off shall not exceed eighty-four (84) hours.

Overtime hours worked on a holiday as defined in the Overtime Article of this MOU shall be paid at the overtime rate of one and one-half (1 ½) times the employee's base hourly rate of pay as set forth in the Overtime Article of this MOU. The employee may elect to accrue Compensatory Time off for these hours in accordance with the Compensatory Time Off and Overtime Articles of this MOU, subject to the combined balances of Holiday and Compensatory Time Off.

#### Holidays - Part-time Employees

Employees occupying permanently allocated positions who work eighty percent (80%) or more of a full-time position shall be credited with eight (8) hours of holiday pay; employees occupying permanently allocated positions who work less than eighty percent (80%) of a full-time position shall be credited with four (4) hours of holiday pay.

#### Holiday Time Off Balances

Holiday Time Off balances (maximum 24 hours) when combined with the CTO balances shall not exceed eighty-four (84) hours. Employees may request to be paid in cash at any time for accrued hours. Use of holiday time off shall be at a time mutually agreed upon by the employee and District Attorney or his/her representative.

Employees shall not be allowed to accrue any additional hours until their holiday accrual falls below 24 hours, and their combined hours fall below the maximum eighty-four (84) hours. Any hours exceeding the eighty-four (84) hour combined maximum shall be paid in cash by the department on the next available pay period. Holiday time off hours may be paid off annually in cash at a time selected by the District Attorney at his/her discretion.

Additionally, prior to any promotion or departmental transfer, employees must either cash out or use all accrued CTO and Holiday Time Off balances.

### **ALTERNATIVE WORK SCHEDULE – ADULT COMPLIANCE TEAM**

In recognition of the Public Safety Realignment Act as outlined in AB 109 effective October 1, 2011, and the requisite participation of one (1) Senior District Attorney Investigator in the Adult Compliance Team (ACT), the parties agree to the terms and conditions regarding an Alternative Work Schedule (AWS) as required by the ACT and as set forth below:

1. The parties acknowledge and understand that the AWS shall consist of four (4) 10-hour workdays per 7-day workweek (i.e. 80 hours per 14-day pay period); however, due to the distinctive work requirements of the ACT for which the AWS is necessary, the AWS may be

subject to variation in the specific workdays and starting/ending times within a given 7-day workweek to meet the needs of the ACT but must remain within the four (4) 10-hour days per workweek parameter;

2. The District Attorney's Office shall submit a memo to Human Resources – Labor Relations identifying the name of the employee assigned to the ACT and subject to the AWS. Upon review and approval, Labor Relations shall execute an AWS agreement with the District Attorney Investigators Association;
3. The AWS shall be governed by the Salary Resolution Sections 813.2 (Exemptions – Overtime), and 914 (Holiday Accrual – Flexible Workweek). It is acknowledged and understood that County overtime shall only be paid for authorized work performed in excess of ten (10) hours in a day or forty (40) hours in a 7-day workweek. Furthermore, the employee shall be credited with eight (8) hours Holiday time for holidays worked or taken (including holidays falling on a regular day off);
4. Management reserves the right and authority to discontinue this AWS at any time. A 2-week notice, if practicable, shall be given to the impacted employee. Such discontinuance shall not be appealable or grievable;
5. The terms and conditions of this Addendum shall be effective March 19, 2012;
6. The AWS shall be effective through the term of the MOU pending continuance of necessary funding.

### **REFERENCE MATERIALS**

The District Attorney agrees to provide annually to each employee the following reference materials:

Penal Code

Peace Officer Source book and subscription revision updates

California District Attorney Investigators' Association Directory

### **CONTINUITY OF OPERATIONS**

Continuous and uninterrupted service to the citizens of the County, and orderly employee/employer relations between the County and its employees are essential considerations of this MOU. Therefore, the Association agrees on behalf of itself and those County employees which it represents, both individually and collectively, there shall not be any strikes, picketing, boycotting, work stoppages, sitdowns, sickouts, speed-ups, slow-downs, or secondary action such as refusal to cross picket lines or any other concerted refusal to render services or to obstruct the efficient operations of the County or refusal to work, including refusal to work overtime, or any other curtailment or restriction of work at any time.

The County shall not utilize a lock-out technique in its employee/employer relationships.

## P.O.S.T. INCENTIVE

Employees who have satisfactorily attained the Advanced P.O.S.T. Certificate shall be compensated at the rate of five percent (5%) above their base salary. (Percentage payment only applied upon receipt of the Advanced P.O.S.T. certificate by the Department of Human Resources.)

## MANAGEMENT RIGHTS

- A. All County rights, powers, functions, and authorities except as expressly abridged by this MOU shall remain vested in the County whether or not they have been exercised in the past.
- B. No portion of this County Management Rights section shall be construed to obligate the County in any way.
- C. This article is not intended to nor may it be construed to modify the provisions of the Charter relating to Civil Service or personnel administration. The Civil Service Commission shall continue to exercise authority delegated to it.
- D. This article is not intended to modify those rights which have been granted to employees in this MOU following procedures specified in Government Code Section 3500 et seq.
- E. In the exercise of its rights, the County shall not require an employee to perform an act or acts contrary to licensing law.
- F. This article is not intended to restrict consultation with the Association at the request of the latter regarding matters within the right of the County to determine.
- G. Nothing in this section shall abridge any rights guaranteed employees pursuant to the Peace Officers' Procedural Bill of Rights Act (Government Code Section 3300 et seq).
- H. The rights, powers, and authorities of the County include, but are not limited to, the sole and exclusive right to:
  - 1. determine the mission of its constituent departments, commissions, boards, and committees;
  - 2. set standards of services and evaluate the County's effectiveness in delivery of these services;
  - 3. determine the procedures and standards for employee selection, promotion, demotion, transfer, reassignment and/or layoff;
  - 4. select, train, direct, assign, demote, promote, layoff, dismiss its employees;
  - 5. communicate fully and openly with its employees on any subject at any time orally, in writing, both at work or through the U.S. mail;
  - 6. take disciplinary actions;

7. relieve its employees from duty or reassign employees because of lack of work or for other reasons the County considers legitimate;
8. evaluate and maintain the efficiency of County operations;
9. determine and change the method, means, personnel, and standards by which County operations are to be conducted;
10. determine the content of job classifications;
11. take all necessary actions to carry out its mission in emergencies as specified in County Ordinance Code Chapter 2.44, including the suspension of portions or all of this MOU for the period of emergency as determined by the County;
12. exercise complete control and discretion over its organization and the technology to perform its work;
13. make rules and regulations pertaining to employees consistent with this MOU;
14. make all financial and budgetary decisions;
15. establish, allocate, schedule, assign, modify, change, and discontinue workshifts and working hours and workweeks;
16. contract, subcontract, establish, merge, continue or discontinue any function or operation of the County;
17. engage consultants for any future or existing function or operation of the County;
18. order overtime.

### **BILINGUAL SKILL PAY**

Effective June 10, 2013, association members are eligible for bilingual skill pay of \$23.08 per pay period. Designated Bilingual Skill Pay positions are at the sole discretion of the Department Head. Position designation/eligibility shall be governed by the Fresno County Salary Resolution, Section 533 with the exception of 533.12.

#### **Pay Provisions:**

1. Bilingual Skill Pay shall be paid in the amount of \$23.08 per pay period.
2. Employees shall be paid in the amount of \$23.08 per pay period regardless of the number of languages they are certified for.

## HEALTH INSURANCE

1. Effective December 18, 2017, the County will contribute, on behalf of each full-time (.8 or higher FTE) employee the following amount per pay period based on the employee's plan selection:

<u>Plan Selection</u>	<u>Amount</u>	<u>Add'l Amount</u>	<u>Total Contribution</u>
Employee Only	\$293	N/A	\$293
Employee plus Child(ren)	\$293	\$110	\$403
Employee plus Spouse	\$293	\$110	\$403
Employee plus Family	\$293	\$115	\$408

Effective December 17, 2018, the County will contribute, on behalf of each full-time (.8 or higher FTE) employee the following amount per pay period based on the employee's plan selection:

<u>Plan Selection</u>	<u>Amount</u>	<u>Add'l Amount</u>	<u>Total Contribution</u>
Employee Only	\$318	N/A	\$318
Employee plus Child(ren)	\$318	\$110	\$428
Employee plus Spouse	\$318	\$110	\$428
Employee plus Family	\$318	\$115	\$433

Effective December 16, 2019, the County will contribute, on behalf of each full-time (.8 or higher FTE) employee the following amount per pay period based on the employee's plan selection:

<u>Plan Selection</u>	<u>Amount</u>	<u>Add'l Amount</u>	<u>Total Contribution</u>
Employee Only	\$343	N/A	\$343
Employee plus Child(ren)	\$343	\$110	\$453
Employee plus Spouse	\$343	\$110	\$453
Employee plus Family	\$343	\$115	\$458

2. A minimum of one (1) health benefit plan, one (1) dental benefit plan, one (1) vision benefit plan, and one (1) pharmacy benefit plan will be available to employees and their dependents. If, during the term of this agreement, any of the health benefit plan(s), dental benefit plan(s), vision benefit plan, mental health plan, or the pharmacy benefit plan is unable to fulfill its contractual obligation, the County, upon consultation with the Health Benefits Advisory Committee (HBAC), if necessary, will secure a suitable replacement.
3. Any employee participating in the County's Health Benefit Program must enroll in one of the Health Insurance Plan(s), unless an employee chooses to opt out of the County's Health Benefit Program.

4. Unless otherwise court ordered, eligible employees may choose to opt out of the County's Health Benefit Program (including any related life insurance program) completing the Opt Out Form and by providing written proof that they have medical coverage from another group health insurance plan. In addition, the employee must verify that a discontinuance of the County's Health Benefit Program does not constitute a violation of any court order or legal obligation. Eligible employees may only opt out during the designated open enrollment period for each respective Health Benefit Plan Year as defined by Human Resources or via a qualifying event (must be turned in within 30 days of the effective date of other group health insurance). Group health insurance plan is defined as employer-sponsored medical coverage.

In the event an employee, who has opted out of the County's Health Benefit Program, subsequently loses his/her alternate medical coverage due to a qualifying event as defined by the Consolidated Omnibus Budget Reconciliation Act (COBRA), the employee may re-enroll in the County's Health Benefit Program. It shall be the responsibility of the employee to notify Employee Benefits within 30 days of the qualifying event.

Any employee who opted out of the County's Health Benefit Program for any Plan Year and desires to maintain their opt out status for subsequent Health Plan Years, must submit a new Opt Out Form during the open enrollment period for each respective Health Plan Year as defined by Human Resources. If an Opt Out Form for any Health Plan Year is not received in the Employee Benefits Division within the respective open enrollment period for each Plan Year as defined by Human Resources, said employee shall be enrolled in the Anthem Blue Cross EPO Health Plan and DHMO Dental Plan. Additionally, any employee who has opted out of the County's Health Benefit Program may re-enroll in the Program during the annual Open Enrollment period.

5. Any newly hired employee eligible to participate in the County's Health Benefit Program must enroll in one of the Health Insurance Plan(s), unless the newly hired employee chooses to opt out (as delineated in No. 4 above) of the County's Health Benefit Program no later than 30 days after date of hire. Any newly hired employee who does not select one of the Health Insurance Plan(s) and does not opt out of the County's Health Benefit Program by the stated deadline, shall be enrolled in the Anthem Blue Cross EPO Health Plan and DHMO Dental Plan.
6. Effective December 17, 2018, any employee who opts out of the County's Health Benefit Program for any Plan Year and does not submit a new Opt Out Form during the open enrollment period (as outlined in No. 4 above), shall be enrolled in the lowest cost Health and Dental Plan. Additionally, any newly hired employee who does not select one of the Health Insurance Plan(s) and does not submit an Opt Out Form (as outlined in No. 5 above), shall be enrolled in the lowest cost Health and Dental Plan.
7. If during the term of this agreement the State or Federal government legislates mandatory benefit levels in excess of those covered by agreement between the County and health/dental plan(s) which result in increased premiums, either the County or the employee organization may request the other party to meet and confer regarding the terms and conditions set forth herein.

8. Pursuant to the HBAC agreement, the parties agree to continue to meet and discuss the County's health benefit program before the commencement of each Plan Year.

### **EMPLOYEE GRIEVANCE PROCEDURE**

The Employee Grievance Procedure and Forms agreed to on January 6, 2010 shall be available on the Human Resources website. No changes shall be made to the procedure and/or forms without mutual agreement of the Association and County.

### **FULL UNDERSTANDING**

It is intended that this MOU sets forth the full and entire understanding of the parties regarding the matters set forth herein, and any other previous understanding or agreements by the parties (with the exception of addendums and sideletter agreements), whether formal or informal, regarding any such matters are hereby superseded, and terminated in their entirety. With respect to addendums and sideletter agreements, all previously existing addendums and sideletter agreements that have not expired and addendums and sideletter agreements entered into during the term of this MOU shall continue in force subject to the terms and conditions set forth within each. Further, neither party shall be bound by any promise or assurance that is not explicitly covered in this MOU, addendum or sideletter agreement signed by both parties.

This MOU shall govern in case of conflict with provisions of existing County ordinances, rules, and regulations pertaining to wages, hours, and other terms and conditions of employment, but otherwise such ordinances, rules, and regulations shall be effective and the Board of Supervisors and other County Boards and commissions retain the power to legislate pertaining to such matters subject to compliance with the Meyers-Milias-Brown Act and other applicable provision of law provided such actions are not in conflict with the provisions of this MOU.

### **ASSOCIATION BUSINESS**

The Association and County agree to establish a bank of leave hours to be used as paid time off in the conduct of DA Investigator's Association business. This agreement is subject to the following conditions:

Effective the 26<sup>th</sup> pay period of the payroll year, the County will deduct six (6) hours from the annual leave balances of each Unit 10 employee.

Should the total bank balance of leave hours exceed 500 hours at the completion of the 23<sup>rd</sup> pay period of the payroll year, no deduction of hours from the employees shall occur for that payroll year. Additionally, any Unit 10 employee that has completed less than 52 pay periods of Fresno County service (based on the pay period counter as of the 23<sup>rd</sup> pay period in the payroll year) will be excluded from the deduction of hours.

The parties agree that all employees who have annual leave balances as of the completion of the 25<sup>th</sup> pay period of the payroll year shall donate the above specified hours. This includes individuals on Labor Code 4850 and other approved leaves of absence.

Hours from the bank may be used by representatives designated by the Association in the conduct of official Association business pursuant to a list provided by the Association. Individuals requesting time off for such use will do so in the same manner they request use of annual leave for other purposes and the time off will be granted or denied on the same basis that any other request for leave is granted or denied by management.

No one Association member, except the Association president, may use more than 50% of the total bank hours established (as of the 26<sup>th</sup> pay period of the payroll year). This condition shall be applicable during each Payroll Year.

Hours deducted from employee balances will not count toward the 120-hour mandatory annual leave usage requirement.

Association representatives using hours from the bank will report such usage on their time sheets under an earn code specified by the County. The Department assumes responsibility for assuring that hours used do not exceed those established in the bank annually.

### **TIER II SAFETY RETIREMENT PLAN – MANDATORY**

Any employee hired between July 17, 2006 and June 10, 2012, into a permanent position in a safety classification covered by this MOU shall be enrolled into the Tier II Safety Retirement Plan as follows:

- Tier II Safety - G.C. 31664.2 (3% at 55 years of age)

The vested "health benefit" (currently \$3.00 per year of service) resulting from the Settlement Agreement (Fresno County Superior Court Cases 605588-3, 608028-7 and 634171-3) [see Section 9] entered into judgment on December 15, 2000, shall be extended to employees enrolled in Tier II Safety.

Any Safety member occupying a permanent position that is represented or unrepresented, who promotes, demotes or transfers into a permanent position in a Safety classification represented by the Fresno County District Attorney Investigators Association, shall continue under the retirement tier in which they were enrolled immediately prior to their promotion, demotion or transfer.

Any Safety member occupying a permanent position represented by the Fresno County District Attorney Investigators Association, who promotes, demotes or transfers into a permanent position in a Safety classification that is represented or unrepresented, shall continue under the retirement tier in which they were enrolled immediately prior to their promotion, demotion or transfer.

Any employee occupying a permanent position who promotes, demotes or transfers from a Safety classification to a General/Miscellaneous classification, or vice versa, shall be enrolled in the corresponding retirement tier (e.g., Tier I Safety membership shall end and Tier I General/Miscellaneous membership shall begin; Tier II Safety membership shall end and Tier II General/Miscellaneous membership shall begin).

## CORRESPONDING TIERS

GENERAL/MISC.		SAFETY
Tier I	←————→	Tier I
Tier II	←————→	Tier II
Tier III	————→	

NOTE: Employees initially enrolled in Tier III General/Miscellaneous who become enrolled in Tier II Safety and subsequently return to a permanent position in a General/Miscellaneous classification shall be re-enrolled into Tier III General/Miscellaneous.

Any employee who deferred retirement prior to the December 15, 2000, Ventura II settlement agreement who subsequently rejoins the retirement association shall be enrolled in Tier I General/Miscellaneous or Tier I Safety. Any other employee who defers retirement and subsequently rejoins the retirement association shall continue under the retirement tier he or she was enrolled in prior to deferral.

The foregoing summary of Tier II Safety Retirement Plan - Mandatory is for the parties' general reference, and does not modify the County Board resolutions or County ordinances which established the tiers.

### TIER IV SAFETY RETIREMENT PLAN – MANDATORY

Any employee newly hired into a permanent position between June 11, 2012, and December 23, 2012, in a safety classification covered by this MOU shall be enrolled into the Tier IV Safety Retirement Plan as follows:

- G.C. 31664 – 2.00% @ age 50; 2.62% @ age 55
- G.C. 31639.25 – Default Member Contribution
- G.C. 31462 - 3 year average for final compensation
- 0% Cost of Living

The vested "health benefit" (currently \$3.00 per year of service) resulting from the Settlement Agreement (Fresno County Superior Court Cases 605588-3, 608028-7 and 634171-3) [see Section 9] entered into judgment on December 15, 2000, shall be extended to employees enrolled in Tier IV Safety.

Any Safety member occupying a permanent position that is represented or unrepresented, who promotes, demotes or transfers into a permanent position in a Safety classification represented by the Fresno County District Attorney Investigators Association, shall continue under the retirement tier in which they were enrolled immediately prior to their promotion, demotion or transfer.

Any Safety member occupying a permanent position represented by the Fresno County District Attorney Investigators Association, who promotes, demotes or transfers into a permanent position in a Safety classification that is represented or unrepresented, shall continue under the retirement tier in which they were enrolled immediately prior to their promotion, demotion or transfer.

Any employee occupying a permanent position who promotes, demotes or transfers from a Safety classification to a General/Miscellaneous classification, or vice versa, shall be enrolled in the corresponding retirement tier (e.g., Tier I Safety membership shall end and Tier I General/Miscellaneous membership shall begin; Tier II Safety membership shall end and Tier II General/Miscellaneous membership shall begin).

**CORRESPONDING TIERS**

<b>GENERAL/MISC.</b>		<b>SAFETY</b>
Tier I	←————→	Tier I
Tier II	←————→	Tier II
Tier III	←————→	
Tier IV	←————→	Tier IV

NOTE: Employees initially enrolled in Tier III General/Miscellaneous who become enrolled in Tier II Safety and subsequently return to a permanent position in a General/Miscellaneous classification shall be re-enrolled into Tier III General/Miscellaneous.

Any employee who deferred retirement prior to the December 15, 2000, Ventura II settlement agreement who subsequently rejoins the retirement association shall be enrolled in Tier I General/Miscellaneous or Tier I Safety. Any other employee who defers retirement and subsequently rejoins the retirement association shall continue under the retirement tier he or she was enrolled in prior to deferral.

The foregoing summary of Tier IV Safety Retirement Plan – Mandatory is for the parties’ general reference and does not modify the County Board Resolution or County Ordinances which established this tier.

**TIER V SAFETY RETIREMENT PLAN (PEPRA) – MANDATORY**

Pursuant to the California Public Employees’ Pension Reform Act of 2013 (“PEPRA;” AB 340, GC §§7522 et seq), any employee newly hired into a permanent position on or after December 24, 2012, who will become a new member of FCERA on or after January 1, 2013, shall be enrolled in the State mandated defined benefit retirement formula specified in Government Code § 7522.25(d) which is known as “Safety Option Plan Two,” and will be subject to all other retirement plan provisions as mandated by PEPRA. This state mandated retirement tier shall be known as the Tier V Safety Retirement Plan.

Consistent with PEPRA, the exception to being enrolled into Safety Tier V for any employee newly hired on or after December 24, 2012, who will become a new member of FCERA on or after January 1, 2013, is an individual who was previously employed by another public employer and was able to establish reciprocity with FCERA as specified in § 7522.02(c). In the case of reciprocity being established, the new employee would be enrolled into Safety Tier IV.

The foregoing information is only for the parties’ general reference.

EXTENSION OF PAID MILITARY LEAVE

Eligible Bargaining Unit Members shall be subject to paid military leave as approved by the Board of Supervisors until such time that the Board of Supervisors terminates said Resolution.

TERM OF MEMORANDUM OF UNDERSTANDING AND RENEGOTIATION

This MOU shall be in effect from November 5, 2018, through November 1, 2020. Negotiations for the successor MOU shall begin on or around August 1, 2020.

COUNTY OF FRESNO

By: 

Date: 10-17-18

FRESNO COUNTY DISTRICT ATTORNEY  
INVESTIGATORS ASSOCIATION –  
UNIT 10

By: 

Date: 10-19-18