

**MARIN COUNTY SHERIFF'S OFFICE  
GENERAL ORDER**

**CHAPTER 2 - PERSONNEL**  
GO-02-10  
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**DATE**  
08/30/13

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**MODIFIED DUTY POLICY**

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**POLICY**

The County of Marin recognizes the need to provide temporary modified work to employees who are unable to perform regular duties due to an occupational or non-occupational injury or illness as soon as a treating physician deems it medically feasible. The program is a commitment to the employee's transition from disability to full recovery while continuing to be a productive part of the work group. The County of Marin believes in the positive benefits of the modified duty program as a means to preserve the employee's work skills, their physical and emotional health and overall financial stability.

It shall be the policy of the Marin County Sheriff's Office to provide the following procedure for the assignment of personnel to temporary modified duty. It is the intent of the Sheriff that this General Order be utilized to maximize personnel resources, maintain the physical and emotional health, welfare and rehabilitation of employees, and to provide the highest quality service and efficiencies to the public.

**DEFINITIONS**

For the purposes of this General Order only, the following words and phrases have the meaning specified below:

- **Modified Duty Assignment** - Job tasks designated by the Bureau Commander, which serve a necessary function that are consistent with the restrictions/limitations described by the treating physician and which are less than usual and customary (full duty) in either nature, extent or duration for the employee's rank or classification.
- **Necessary Function** – A productive activity within the Sheriff's Office that is consistent with the temporarily disabled employee's rank or classification to which the employee can be assigned without displacing another employee or creating significant difficulty or expense to the Sheriff's Office. No permanent position shall be created by the Sheriff's Office to otherwise provide a post to which a temporarily disabled employee could be assigned.
- **Physical or Mental Condition** – A temporary physiological or psychological condition resulting from illness, injury, pregnancy or childbirth that prevents or can be reasonably anticipated to prevent full fitness for duty by a Sheriff's Office employee.
- **Disabling Condition** – The medically documented physical or mental health status that renders that employee temporarily unable to perform their usual and customary duties for a prescribed period of time.

- **Treating Physician** – The employee's designated primary treating physician, Agreed Medical Examiner or Qualified Medical Examiner. If the employee has more than one physician with an opinion it is the employee's responsibility to have those opinions sent to the designated primary treating physician. There can be only one physician recognized as the authority when providing disability information for purposes of the temporary modified duty program.

## PROCEDURE

### REPORTING REQUIREMENTS

It is the responsibility of the employee to notify the Sheriff's Office when they are medically determined to be unable to perform their usual and customary duties pursuant to the provisions for ill and injured employees as described more fully in General Order GO 02-02. It is also the responsibility of the employee to notify the Sheriff's Office when they can come back to work in a modified duty status.

Either the employee or Sheriff's Office may initiate the process for assignment of a modified duty. A good faith effort will be made to place all injured or ill employees who are released to modified duty and who provide appropriate signed documents in the form of a work status report.

### EMPLOYEE INITIATED REQUEST FOR MODIFIED DUTY:

Subsequent to compliance with provisions of General Order GO 02-02, an employee that desires to be considered for temporary modified duty assignment in lieu of sick time may be assigned to temporary modified duty provided that:

1. The employee expresses interest in TMD assignment to the Administrative Lieutenant through his/her supervisor.
2. The employee provides the dated medical documentation that states the date the work restrictions are to commence.
3. The employee provides an estimated length of time the disability or work restrictions apply and date he/she anticipates return to full duty without restrictions.
4. The employee provides the date of his/her next medical appointment.

### SHERIFF'S OFFICE INITIATED MODIFIED DUTY ASSIGNMENT:

The Sheriff may assign an injured or ill employee to modified duty.

1. If an employee objects to a Sheriff's Office initiated Temporary Modified Duty assignment, he/she shall notify the Administrative Lieutenant of his/her objection to the modified assignment and the grounds of the objection. The employee shall forward their written statement stating their objection and grounds for objection to the Sheriff via the Administrative Lieutenant within three (3) days of the assignment offer.
2. For disability related to occupational injury or illness, the work status/release to modified duty may be received directly from the employee or be forwarded from the treating physician through our Third Party Administrator (see Appendix A.) The release must meet the requirements noted above and be sufficiently detailed to enable the Sheriff's Office to determine whether or not they can provide suitable temporary job tasks.
3. In occupational related disabilities, if the modified duty assignment is within the restrictions imposed by the treating physicians and such assignment is refused by the employee, benefits to which they would otherwise be entitled (4850 or TTD) will be withheld.

### PROCESSING REQUEST FOR MODIFIED DUTY ASSIGNMENT

Upon request to provide modified duty or receipt of a medical release to modified duty, the individual's Division Commander will notify the Administration Division Lieutenant, hereinafter

referred to as the Admin Lieutenant. The Admin Lieutenant shall evaluate the appropriateness of an employee's assignment to modified duty pursuant to the provisions of this General Order and policy. If approved by the Admin Lieutenant or his/her designee, a determination shall be made of a suitable temporary modified duty assignment on a case-by-case basis. His/her evaluation will be forwarded to the Commander, Bureau of Support Services who will advise the Sheriff and Undersheriff.

In making the determination whether a temporary modified task assignment can be provided, the following is considered:

- Necessary functions and needs of the Sheriff's Office at the time of the request
- Limitations/restrictions imposed by the treating physician. If the County or TPA has sent the employee to a physician for evaluation and the recommendations of that physician are in conflict with the treating physician recommendations then both recommendations should be sent to the Risk Management Department for a resolution of the limitation/restrictions imposed.
- Particular skills, experience and job classification/rank of the employee.

Supervisors placed on modified duty status shall perform those activities and tasks as designated by the Sheriff or his/her designee. Sworn employees above the rank of Sergeant may be placed on modified duty status at the discretion of the Sheriff.

If temporary modified duty is not provided, the Admin Lieutenant, or his/her designee must immediately notify the Workers Comp Analyst, Risk Management Department and Third Party Administrator (see appendix A) so that alternative benefits can be timely provided. Until the Sheriff's Office provides temporary modified duty assignments such benefits, as the employee would otherwise be entitled will be provided.

#### ASSIGNMENT TO BUREAU OF SUPPORT SERVICES

Employees placed on modified duty status shall be assigned to the Bureau of Support Services, and will be contacted by the Bureau Commander or his/her designee and given a date and time to report for duty.

The Bureau Commander (Support Services) will retain administrative supervision of an employee on modified duty status irrespective of the assigned operational unit.

The Bureau Commander shall:

- Assign an employee on modified duty status to a necessary function within an operational unit
- Assign an employee to any shift of an operational unit consistent with the needs of the Sheriff's Office
- Coordinate with the Commander of the operational unit to which an employee is assigned to provide for supervision and direction of the employee
- Evaluate the modified duty status of all employees assigned to the Bureau of Support Services a minimum of once every thirty (30) days
- Monitor the employee to assure the performance of the assigned duties do not exceed the restrictions

The Sheriff's Office may require an employee on modified duty status to obtain a fitness for duty report from the treating physician or other designated medical professional as part of the ongoing status evaluation process.

The duration of the modified duty assignment shall be determined by Sheriff's Office needs and an ongoing case-by-case evaluation of the employee's individual circumstances and fitness for

duty. An employee who meets all requirements for placement in this program may be eligible to participate for up to 150 calendar days in any rolling 12 month period upon approval by the Sheriff. The Sheriff's Office may grant extensions of this time period on a case-by-case basis. However the total number of days of participation in the Modified Duty Program by one individual shall not exceed 260 calendar days in any rolling 12 month period.

Employees on modified duty status will be allowed reasonable accommodation to attend physician appointments and participate in any ongoing course of treatment or rehabilitation as prescribed by the designated treating physician.

#### **SPECIAL REGULATIONS FOR EMPLOYEES ON MODIFIED DUTY (NON-SUPERVISORY)**

Sworn employees shall not wear the Sheriff's Office uniform while on modified duty status unless otherwise directed by the Bureau Commander or operational unit commander. Appropriate business attire shall be worn. Shorts or cutoff pants are not appropriate unless a cast or other medical device prevents the wearing of long pants. Business casual shall be the standard apparel unless otherwise authorized.

Sworn employees may retain their peace officer status unless notified by the Sheriff's Office that their peace officer powers are in suspension. However, sworn employees shall restrict their actions to those incidents that present a clear and imminent threat to life or serious bodily injury.

Employees on modified duty status under the provisions of this paragraph shall engage in enforcement actions only under the direction and supervision of the Support Services Bureau Commander or operational unit commander.

Employees on modified duty status shall not engage in secondary employment or continue secondary employment commenced prior to the occurrence of the disabling condition unless:

- The employee has secured written permission from the Sheriff prior to the occurrence of the disabling condition in accordance with the Marin County Code Section 2.52.090; and
- Following the assignment to modified duty, the employee has again secured the Sheriff's written authorization.

#### **TERMINATION OF MODIFIED DUTY ASSIGNMENT**

A modified duty assignment will terminate under the following conditions:

- No necessary function exists in the Sheriff's Office or is consistent with the restrictions imposed by the treating physician
- The employee has been released to return to full duty by their treating physician
- The employee has been medically determined to be permanently precluded from returning to their usual and customary position
- The maximum aggregate duration for modified duty allowed by this policy has been reached
- In the opinion of the Bureau Commander the employee has failed to fulfill their responsibilities and obligations pursuant to this policy
- The maintenance of an employee on modified duty status conflicts with the legitimate business needs of the Sheriff's Office or any other requirement, regulation or law to which the Sheriff's Office must adhere.

#### **RELATED STANDARDS:**

Labor Code §132a; 1735; 3352; 3366; 3552; 3600.2; 3600.3; 4050; 4600; 4850  
Government Code §12920; 12926; 12940; 12945; 19720; 50920; 50921; 50922  
Moore Brown Roberti Family Rights Act (Govt. Code §12945.2 & 19702.3)  
Title VII, Civil Rights Act of 1964 as amended

42 USC 12211

California Code of Regulation:

Title 2, Chapter 2 §7286.3; 7286.5; 7286.7; 7286.8; 7293.5; 7293.6; 7293.8; 7293.9; 7297.1;  
7297.6

Title 8, Article 5 §9780; 19783; 9785.5

Illness and Injury Procedures [General Order GO-02-02]

AFFECTED DIVISIONS:

All.

DATE OF REVISIONS:

04-20-96

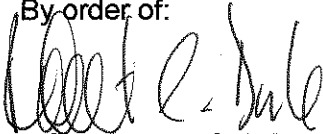
03-07-02 [replaced General Order GN-96-02]

01-20-03

07-06-05

05-27-08

By order of:



ROBERT T. DOYLE  
SHERIFF