

MESA POLICE Department Policy Manual	Fitness for Duty Evaluation Protocol	DPM 1.2.100 Effective 04/06/2012 Revised 04/07/2022
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1. PURPOSE

This policy establishes consistent procedures for ordering and implementing fitness for duty evaluations of Mesa Police Department (MPD) sworn and other members involved in public safety functions when circumstances indicate that continued service may be a threat to public safety, the safety of other members or the safety of the particular member.

2. GENERAL

- A. Arizona Administrative Code, Rule 13-4-109 A3, mandates that all peace officers in Arizona be medically, physically, and/or mentally able to exercise the powers of a peace officer.
- B. This policy is intended to provide a mechanism for the assessment of a member's physical, emotional, and/or mental ability to perform essential job functions when the member's conduct, behavior and/or circumstances indicate that continued service by the member may be:
 - 1. A threat to public safety.
 - 2. The safety of other members.
 - 3. The safety of the particular member.
 - 4. May interfere with the City of Mesa's ability to deliver effective police services to the community.
- C. It is not the intention of this policy to interfere with a supervisor's ability to recommend or suggest personal counseling to a subordinate, nor is this policy intended to alter or replace confidential counseling provided by the department as a result of critical incidents.

3. FITNESS FOR DUTY EVALUATION

- A. A physical or psychological fitness for duty evaluation is a formal, specialized evaluation of a member that results from:
 - 1. Objective evidence that the member may be unable to perform a defined job safely or effectively; and
 - 2. A reasonable basis for believing that the cause for the poor performance or inability has, as its cause, physical or psychological factors.
- B. The central purpose of a fitness for duty evaluation is to determine whether the member is able to perform safely and effectively their essential job functions and not for purposes of medical treatment.

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4. PROCEDURE

- A. The procedures outlined in this policy assist in determining the continuing physical, emotional and/or mental fitness of members to carry out their essential job functions as police officers, and other members whose duties affect the public safety. [ALEAP 12.7B]
- B. All supervisory members should be alert to any indication that a member may not be emotionally or mentally fit such that the member's behavior or circumstances indicate that continued service by the member may be: [ALEAP 12.7B]
 1. A threat to public safety.
 2. The safety of other members.
 3. The safety of the particular member.
 4. May interfere with the City of Mesa's ability to deliver effective police services to the community.
- C. The mere presence of any one factor or combination of factors may not be sufficient to order the evaluation. However, such presence should not be ignored and may lead to the ordering of an evaluation. While there is a great variety and range of acceptable behavior among members, dramatic or sudden changes in any particular member's customary behavior may increase concern. [ALEAP 12.7B]
- D. Such indications may include but are not limited to the following factors: [ALEAP 12.7B]
 1. One or more personnel complaints, whether originated internally or externally, particularly complaints of the use of unnecessary or excessive force, inappropriate verbal conduct, or any conduct indicating an inability to exercise self-control and self-discipline.
 2. An abrupt and negative change in customary behavior toward an inability to perform essential functions of the position.
 3. Irrational verbal conduct or behaviors including delusions and hallucinations.
 4. Suicidal statements or behaviors or personal expressions of mental instability.
 5. Unexplained and excessive tiredness or hyperactivity.
 6. Significant change in eating patterns resulting in sudden weight loss or gain or diagnosis of a life threatening eating disorder which has been disclosed to the Department.
 7. Change in behavior pattern to inattention to personal hygiene and health.
 8. Inappropriate use of alcohol, medications or other drugs, including symptoms of illegal drug use.
 9. Memory losses.
 10. Loss of control or inability to control temper.

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11. A pattern of conduct indicating an inability or decrease in ability to defuse tense situations, a tendency to escalate such situations or create confrontations.

12. Unexplained and inappropriate excessive lateness or absenteeism.

13. Any other factor or combinations of factors that causes a supervisor to reasonably suspect that a fitness for duty evaluation may be necessary.

4.1 Supervisor Responsibilities

- A. Any supervisor observing any circumstance that indicates a police officer or other personnel under their command involved in public safety functions may not be physically, emotionally, and/or mentally fit to carry out their essential job functions as defined in this protocol shall prepare a written report to their commanding officer.
- B. The commanding officer shall advise their Assistant Chief of the circumstances. The Assistant Chief shall make a recommendation to the Chief of Police as to whether a fitness for duty evaluation is necessary.
- C. A supervisor does not have the authority to order an officer or other member involved in public safety functions to a fitness for duty evaluation inconsistent with this protocol.
- D. To ensure compliance with the Americans with Disabilities Act (ADA) and the Family Medical Leave Act (FMLA) requirements supervisors are cautioned not to question or make inquiries into a member's disability unless there is an articulable reason to believe that an officer is unable to perform their job function without posing a threat to themselves or others.
- E. In aggravated circumstances such as when a member's conduct immediately directly threatens the safety of other officers, the members or the public a supervisor may immediately relieve the member of duty. This decision is pending further evaluation and with the approval of the commanding officer.
- F. In all other cases, at the discretion of the Chief of Police, members may be relieved from duty or reassigned as necessary for public safety or the efficient operation of the Department pending completion of either a physical or psychological evaluation.
- G. Any readily accessible or Department-provided weapons or other Department property may be retrieved by the supervisor and, where appropriate, the member ordered not to exercise peace officer or other official powers.
- H. Nothing in this policy is intended to prevent or limit a supervisor from taking any emergency action reasonably necessary to protect life or property.
- I. The Chief of Police or their designee may determine, in the exercise of their discretion and with or without additional investigation, whether a fitness for duty evaluation is warranted. If an examination is warranted it should be scheduled for the earliest opportunity.

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4.2 Written Order

- A. The member shall receive a written order for the evaluation which shall include:
 1. A brief description of the specific reason(s) for the evaluation.
 2. The date, time and place of the evaluation.
 3. The name of the physician or psychologist conducting the evaluation.
 4. A directive to cooperate with the physician's, psychologist's and/or staff requests and completely and honestly answer any questions posed by the physician, psychologist or staff.
 5. Notice that the evaluation is being conducted for use by the Department. The notice shall also state the evaluation is confidential between the member and the physician or psychologist, but the physician or psychologist shall release to the Department a statement that the officer is fit or not fit for duty.

6. FITNESS EVALUATION

- A. The physician or psychologist shall be designated by the Department. The physician or psychologist shall be instructed by the Department to only release that information as allowed under this policy or as otherwise required by state or federal law.
- B. The medical finding of the physician or psychologist, as to whether the member is fit for duty, shall be final and binding on all interested parties.
- C. The physician or psychologist shall evaluate the member based essential functions of the position. "Essential function" means the fundamental job duties for sworn officers and includes but is not limited to the following:
 1. Affect an arrest, forcibly if necessary, using handcuffs and other restraints.
 2. Climb over objects, climb through openings, jump down from elevated surfaces, jump over obstacles, ditches and streams; crawl in confined areas to pursue, search, investigate, and/or rescue.
 3. Communicate effectively over public safety radio channels while initiating and responding to radio communications, often under adverse conditions such as siren usage and high-speed vehicle operation.
 4. Communicate verbally and effectively by listening to people and by giving information, directions and commands.
 5. Conduct searches of buildings and large outdoor areas which may involve walking and/or standing for long periods of time and may also require the ability to distinguish colors and perceive shapes.
 6. Conduct visual and audio surveillance for extended periods of time.

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7. Enter and exit vehicles quickly to perform rescue operations, pursue a suspect or answer an emergency call.
8. Exercise independent judgment within legal guidelines to determine when there is reasonable suspicion to detain, when probable cause exists to search and arrest and when force may be used and to what degree.
9. Gather information in criminal investigations by interviewing and recording the statements of victims, witnesses, suspects and confidential informants.
10. Load, unload, aim and fire handguns, shotguns and other Department firearms from a variety of body positions in situations that justify the use of deadly force while maintaining emotional control under extreme stress.
11. The ability to manage interpersonal conflicts to maintain order.
12. Operate an emergency vehicle while exercising due care and caution under the following conditions:
 - a. During both the day and night;
 - b. In emergency and pursuit situations involving speeds in excess of posted limits and contrary to traffic control devices;
 - c. In congested traffic;
 - d. On unsafe road conditions; and
 - e. Under adverse environmental conditions such as fog, smoke, rain, or dust storm.
13. Perform law enforcement patrol functions while working rotating shifts and in emergency situations which may require prolonged periods without relief.
14. Perform tasks which require lifting, carrying or dragging people or heavy objects while performing arrest, rescue or general patrol functions.
15. Perform searches of persons which involve touching and feeling to detect potential weapons and contraband.
16. Prepare investigative and other reports, including sketches, using appropriate grammar symbols and mathematical computations.
17. Pursue fleeing suspects on foot both day and night in unfamiliar terrain.
18. Read and comprehend rules, regulations, policies, procedures and the law for purposes of ensuing appropriate officer behavior/response and performing enforcement activities involving the public.
19. Subdue resisting subjects using hands and feet while employing defensive tactics, maneuvers or approved non-lethal weapons.
20. Use body force to gain entrance through barriers to search, seize, investigate and/or rescue.
21. Possess the ability to accept directions and comply with orders while maintaining emotional control.
22. The ability to maintain emotional control when faced with verbal or physical confrontation.

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- 23. Rotate or fluctuate work hours.
- 24. Perform other essential tasks as identified by the MPD.
- D. These "essential functions" apply to other personnel involved in public safety functions to the extent required for their employment position and assigned duties.

7. EVALUATION REPORT

- A. The Department has a right to information that is necessary to achieve a legitimate purpose. The evaluation is ordered by and conducted for the Department. It is not for the purpose of treatment but to determine fitness for duty. The limited written results of the evaluation indicating fit or not fit for duty and the members' job limitations, if any, will be provided to the Department as a confidential personnel record.
- B. The report and information received by the Department shall be limited to:
 - 1. A conclusion regarding whether the member is fit or not fit for duty.
 - 2. A description of the functional limitations of the member.
 - 3. Whether the condition that leads to the functional limitations is industrial or nonindustrial in nature.
 - 4. Other information to the extent authorized by law, necessary to achieve the legitimate purpose of the employer.
 - 5. No statement of medical cause shall be included.
 - 6. Exception: Where the member has initiated a lawsuit, arbitration, grievance, worker's compensation or other claim or challenge involving their medical history, mental or physical condition, or treatment, the report may contain information that is relevant to that action.
- C. A member may waive in writing any or all restrictions on the information reported to the employer.
- D. The Department has established appropriate procedures to protect the information from unauthorized use or disclosure. The report will be placed in a sealed envelope and retained in the member's separate secure medical file in the Office of the Chief of Police. The report may only be used or disclosed in a legitimate and appropriate proceeding to the extent authorized or compelled by law or agreement.
- E. Refusal to comply with the order or any of its parts, or with reasonable requests by the evaluator shall be deemed insubordination, and shall be grounds for disciplinary action, up to and including termination.
- F. Depending upon the results of the evaluation and the recommendation of the evaluator, the Department may:
 - 1. Return the member to full duty.
 - 2. Place the member on temporary light or modified duty.

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3. Remove the member from any duties pending treatment and re-evaluation.
4. Conditionally allow full or modified duty on receipt of treatment.
5. Institute or resume disciplinary proceedings as appropriate.
6. Institute proceedings to medically terminate employment, or when appropriate, offer an alternative position, for which the member may be qualified.