

Legal Defense Handbook

Fraternal Order of Police Chicago Lodge No. 7



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WWW.CHICAGOFOP.ORG

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Adopted as a general standard of conduct for all sworn members of the Department

The Law Enforcement Code of Ethics

States:

"As a law enforcement officer, my fundamental duty is to serve mankind; to safeguard lives and property, to protect the innocent against deception, the weak against oppression or intimidation, and the peaceful against violence or disorder and to respect the Constitutional rights of all men to liberty, equality and justice."

"I will keep my private life unsullied as an example to all; maintain courageous calm in the face of danger, scorn, or ridicule; develop self-restraint; and be constantly mindful of the welfare of others. Honest in thought and deed in both my personal and official life. I will be exemplary in obeying the laws of the land and the regulations of my department. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept

ever secret unless revelation is necessary in the performance of my duty."

"I will never act officiously or permit personal feelings, prejudices, animosities, or friendships to influence my decisions. With no compromise for crime and with relentless prosecution of criminals, I will enforce the law courteously and appropriately without fear or favor, malice or ill will, never employing unnecessary force or violence and never accepting gratuities."

"I recognize the badge of my office as a symbol of public faith, and accept it as a public trust to be held so long as I am true to the ethics of the police service. I will constantly strive to achieve these objectives and ideals, dedicating myself before God to my chosen profession. . . law enforcement."

Introduction

The old Legal Defense Handbook was bulky, cumbersome and outdated coupled with the new changes in the discipline process the time has come for the Lodge to re-write the handbook and make it compact enough so our members can carry it along with their everyday equipment. This will make the handbook available so that when a situation arises a member will have the handbook with them as a reference guide.

The goal of this Legal Defense Handbook is to make the discipline process as easy to understand as possible. We will have Legal Defense Handbooks available to the membership through Legal Defense seminars, Unit Representatives and from the Board of Director's who will pass out copies at roll calls.

We will hold seminars for the Unit and Watch representatives and then the seminars will be open to the membership so that every member can attend if they so desire.

We have referred you to the corresponding sections of the collective bargaining agreement as well as the Department's General Orders that correspond to each issue to give you a clear understanding of what is allowed and what options are available to you.

Hopefully this book will answer most of your questions and guide you through the process. If you do not understand a part of the process you can ask your Unit or Watch representative or call the Lodge and a Lodge officer will be happy to provide you with an explanation.

The Lodge's Legal Defense Team is headed by Third Vice President Greg Bella, he is assisted by Second Vice President Frank DiMaria and the rest of the Field Representatives of the Lodge. A Lodge Representative is available 24 hours a day, every day of the year. Please call the main number of the Lodge 312-733-7776 and if the Lodge offices are not open, a live operator will answer your emergency call.

Table of Contents

F.O.P. Chicago Lodge #7 Legal Defense	1
Legal Defense Committee Guidelines	3
A Guide To The Disciplinary Process	5
The Police Board.....	12
Interacting With I.A.D. And O.P.S.	14
The Mediation Process.....	17
Police Shootings and Other Serious On/Off Duty Incidents	18
Vehicle Pursuits	19
Use of Force.....	20
Non-Disciplinary Intervention -- Verbal Abuse	21
Summary Punishment Action Request	23
Discipline Screening Program	24
Civil Lawsuits	25
Definition	25
The Process	25
Contractual Rights of Officers	26
Access to Disciplinary Files.....	27
Grievances (Disciplinary/Suspension Grievances).....	28
Grievance Procedure.....	30
Grievance Form	31
Rights of Public Safety Officers	32
Garrity Rights.....	32
The Weingarten Rule	32
Rights of Union Representatives	34
Confidentiality Privilege of the Union Agent	38
Behavioral Intervention Program.....	36
Psychological Evaluation.....	37
Vehicle Licensing / Sticker Violations	39
Secondary Employment	40
Frequently Asked Questions	41
See samples of Civil Suit Indemnification To/From and Disclaimers at back of this book.	

F.O.P. Lodge 7 Legal Defense

The F.O.P. Lodge 7 Legal Defense Fund exists for the exclusive purpose of providing legal representation for eligible members of F.O.P. Lodge 7. The Legal Defense Fund is financed by contributions paid by the members of the Lodge to provide quality legal representation. A member will be provided with legal representation at no cost when a member receives a complaint or comes under investigation while in the performance of his/her duties, whether on or off duty.

Making The Legal Defense Plan Work

To ensure that the plan works properly members need to understand and follow a few simple rules.

First, when you are notified by IAD/OPS that there is a C.R. number against you and you are given the written allegations against you, whether you are the accused or a witness, you will be requested to submit a written report or give a question/answer statement. At this point you have a form and it states that you have the right to seventy-two hours to secure legal counsel. Make sure you check that option on the form. If you are requested to give a written statement you should call the Lodge for assistance in writing your report. If you have to give an oral statement you will be given a date/time to return with legal counsel to give your statement. The time of your statement should be between the hours of 0600-1800 hours, if not request that the time be changed. If the investigator refuses, call the Lodge immediately. While these hours may inconvenience a small number of officers, these restraints are necessary because the union does not have the financial resources to have at-

torneys available around the clock except for emergencies.

Second, call the Lodge office as soon as possible between the hours of 0800-1800. Prompt notifications are important because on any given day, there are approximately 40 investigators in IAD/OPS who may schedule statements and only 5 attorneys available. Prompt notification to the Lodge allows us to schedule attorneys so that they are available to represent the member.

Third, when you call the Lodge make sure you have your allegations available because we need to know the C.R. number, the date/time of the statement, the specific allegations and the name of the investigator. We also need to know if there are other officers involved in the investigation because this information is vital so that the Lodge can provide you with quality legal defense.

Fourth, please be prompt so that you have enough time to speak with the attorney prior to giving your statement

F.O.P. Lodge 7 Legal Defense

and if a situation arises where you have to cancel the appointment notify the Lodge immediately so that we don't waste the attorney's time and, more importantly, your money.

Following these few simple guidelines will allow us to continue to provide you with quality legal assistance at a low cost. Your union wants to provide you with the best services possible while keeping costs reasonable and this can only be done with your help.

Legal defense coverage must be approved by a Lodge officer who must follow the Legal Defense Guidelines. If a member does not agree with the decision of the Lodge officer in the case of a denial of coverage, the member can appeal to the Legal Defense Committee. The Legal Defense Committee meets once every month when there are requests for coverage. The member must call the Lodge and make an appointment to appear before the Legal Defense Committee. The member then appears before the Legal Defense Committee and must submit any pertinent reports as well as oral testimony relative to why the member believes that his/her request falls within the Legal Defense Guidelines.

The Legal Defense Committee will then deliberate and the member will be notified of the Committee's decision by mail.

If the affected member does not agree with the decision of the Legal Defense Committee the member can appeal to the Board of Directors of Lodge 7. The Board of Directors meets the first Tuesday of every month and the time certain for members to address the full Board

is at 1300 hours. The decision of the Board is final.

Legal Defense is provided by a law firm that works for the Lodge. The law firm has attorneys on call who accompany members who are notified to appear at IAD/OPS to give question and answer statements. In an agreement with the City no members will be scheduled to appear at IAD/OPS before 0600 hours or after 1800.

These attorneys are also on call 24 hours a day in case of an emergency. In all instances where there is an emergency these attorneys will respond to aid our members. If an emergency is duty-related the Lodge will pay for the attorney and in the event that circumstances are outside the guidelines then the member is responsible for payment but the attorney is still available for the member and the firm charges the member a reduced rate. The Legal Defense Committee can approve representation by an attorney other than the Lodge attorney in cases where there is a conflict but the outside attorney is paid only the hourly rate that the Lodge pays the Lodge attorney. If the attorney is requested by the member then the member is responsible for any difference in the rates. (In most cases outside attorneys agree to work for the Lodge rate.)

If a conflict exists between or among two or more members then an additional law firm will supply attorneys as needed to avoid any conflict.

Legal Defense Committee Guidelines

For any incident, arising from the performance of a police function which occurs while the officer is on or off duty, the FOP Legal Defense Committee (LDC) will provide legal coverage and representation, including referral to an attorney approved by the FOP and payment of attorney's fees and costs for administrative or judicial proceedings, including criminal proceedings. Such coverage does not extend to any appeals taken by the officer unless approved by the full Board of Directors.

To assure and maintain the superior quality of counsel, and to avoid any abuse of LDC monies, the Legal Defense Committee, in consultation with counsel, shall establish and maintain a list of qualified attorneys who have demonstrated competence, knowledge and integrity and who have agreed to accept and be bound by the reasonable fees that the LDC will make available. Although recommendations can be made upon the request of the officer, the officer shall select among the approved counsel, the attorney of his/her choice. An officer has a right to select his/her own attorney, however, in that case the officer and not the LDC or Lodge shall be responsible for such attorney's fees or costs. No officer can bind or commit the LDC or Lodge 7 or any official or member thereof to any attorney not previously approved by the LDC.

In determining whether to extend LDC coverage to an individual officer, the Chairman of the LDC will review whatever evidence is available at the time the request for coverage is made, (i.e., documents, indictments, subpoenas, audio/video recordings, and statements). The Chairman's determination is subject to review and approval by the LDC and FOP Board of Directors. If coverage is denied, the officer shall be notified of a right to appeal the Chairman's decision to the full LDC and the

Board of Directors. The Chairman has the authority and right to reconsider the initial determination based on evidence made available at a later date.

If the Chairman decides, after reviewing the subsequently obtained evidence, the coverage should be withdrawn, the officer shall be notified and informed of his/her appeal rights. The Chairman also shall notify the attorney representing the officer of the withdrawal of coverage under the legal plan.

The decision to extend coverage under the FOP Legal Defense Plan will be based on whether the alleged misconduct arose from the officer's performing a police function. Some factors to be considered in determining whether the alleged misconduct is duty-related include, but are not limited to, whether the officer was on or off duty: if off duty, whether the act occurred while the officer was acting as a police officer and the act itself was duty-related: whether the conduct occurred at or away from a Chicago Police Department facility or a facility used for official Police Department business; and whether the act was one the police officer is required to perform, or should perform, within the scope of his/her employment.

The question of whether an officer is acting within the scope of his/her employment must be measured by objective criteria. An officer can be found to be acting within the scope of his/her duties if the alleged act is closely connected with, or a natural part of, what the officer is employed to do, or fairly and reasonably incidental to it, that it may be regarded as a method of carrying out the objectives of the officer's employment even though the methods used by the officer are improper and designed to further the officer's own ends. Issues or questions of an officer's motives should not be considered.

Legal Defense Committee Guidelines

Legal defense coverage must be approved by a Lodge officer who must follow the Legal Defense Guidelines. If a member does not agree with the decision of the Lodge officer in the case of a denial of coverage, the member can appeal to the Legal Defense Committee.

Legal Defense Appeal Process

When you call the Lodge for an attorney to represent you and you receive a denial because your claim does not fall within the Legal Defense Guidelines you have access to an appeal process.

Your next step is to initiate an appeal by calling the Lodge and requesting to appear before the Legal Defense Committee. When you appear you present your case verbally and you can provide the Committee with any documentation

that you may have. The Committee will hear your request and then vote as to whether or not your case meets the Legal Defense Guidelines. You will receive a written response letter from the Committee with their response to your request.

If at this point you are again denied coverage your final appeal would be by a direct appeal to the Board of Directors of Lodge 7. The Board meets the first Tuesday of every month and a "Time Certain" to appeal to the Board is at 1200 hours. You would appear before the Board and verbally present your case as well as provide any documentation to support your claim. The decision rendered by the Board of Directors is final.

A Guide To The Disciplinary Process

1. A Complaint is filed:

All complaints against Department members are directed to the Office of Professional Standards (OPS), a unit of the Chicago Police Department staffed by civilian personnel. OPS retains for investigation those complaints in which use of excessive force is the primary allegation. All other complaints, including narcotics use, corruption and insubordination, are forwarded to the Internal Affairs Division (IAD). Each complaint, whether lodged by a citizen, or a supervisor from within the Chicago Police Department, receives a Complaint Register (CR) number.

The complaint is assigned to an investigator who will conduct the investigation. The investigator can investigate the allegations up to the point where the accused or witness officer's statements are needed, prior to these statements being given a signed affidavit by the complainant must be obtained. The investigation cannot proceed from this point without a signed affidavit. If no affidavit is obtained then the C.R. number is closed and will not appear in the officer's disciplinary file.

2. The Sworn Affidavit *(See example of form on pg. 7)*

A. No affidavit will be required in support of anonymous complaints of criminal conduct. The Department shall continue its current and past practice with respect to classifying allegations as either criminal or excessive force.

Allegations of excessive force shall not be classified as criminal for the purpose of avoiding the affidavit requirement.

B. **Anonymous complaints of Medical Roll Abuse and/or Residency Violations will not be made the subject of a Complaint Register (CR) investigation until verified**, consistent with the current procedure. If the anonymous complaint has been verified, no affidavit will be required.

C. Where a supervisory member receives an allegation of misconduct from a citizen, the supervisor will not be required to sign an affidavit (the complainant must sign the affidavit).

D. Where one Department member makes an allegation of misconduct against another Department member neither Department member will be required to sign an affidavit because both Department members are subject to discipline for making a false report under Rule 14 of the Department's Rules and Regulations.

E. A complaint which is supported by an affidavit will not require additional affidavits in support of additional allegations within the same complaint.

F. In all other cases, **the Department will make a good faith effort to obtain an appropriate affidavit from the complainant within a reasonable amount of time.** An "appropriate affidavit" in the case of a citizen complaint is one where the complainant affirms under oath that the allegation(s) and statement(s) made are true.

A Guide To The Disciplinary Process

- G. When an appropriate affidavit cannot be obtained from a citizen complainant, the head of either OPS or IAD **may** sign the appropriate affidavit according to the following procedure. An “appropriate affidavit” in the case of the head of either OPS or IAD is an affidavit wherein the agency head states he or she has reviewed objective verifiable evidence of the type listed below, the affidavit will specify what evidence has been reviewed and in reliance upon that evidence the agency head **affirms** it is necessary and appropriate for the investigation to continue.
- H. **The types of evidence** the agency head must review and may rely upon will be dependent on the type of case, but may include **arrest and case reports, medical records, statements of witnesses and complainants, video or audio tapes, and photographs. This list is illustrative only and is not to be considered exclusive or inclusive.**
- I. In the case of an investigation of the type normally conducted by OPS, the head of IAD will execute the affidavit described above, if the head of IAD believes execution of the required affidavit is appropriate under the facts of the case based upon the evidence received at that time. In the case of an investigation of the type normally conducted by IAD the head of OPS will execute the affidavit described above. If the head of OPS believes the required affidavit is appropriate under the facts of the case based upon the evidence received at that time.
- J. **No officer will be required to answer any allegation of misconduct unless it is supported by an appropriate affidavit,** except as specified in paragraphs A through E above. In the event that no affidavit is received within a reasonable amount of time, the investigation will be terminated and no record of the complaint or investigation will appear on the officer’s Disciplinary History.
- K. Upon receipt of a complaint which requires an affidavit, the Department may conduct a preliminary investigation into those allegations but no Complaint Register (CR) number will be issued unless and until the required affidavit is obtained. The parties acknowledge the Department is currently unable to track these preliminary investigations but will begin to do so as soon as the computer application is functional. Until the Department is able to begin tracking the preliminary investigations, a C.R. number will be used to track these investigations.
- L. **In the case of a sustained finding that is subject to the parties’ grievance procedure, the arbitrator has the authority to review whether the Department made a good faith effort to secure an affidavit from the complainant and whether the decision of the head of OPS or IAD was based upon objective evidence of the type specified above in paragraph H, in addition to the issues of just cause and the appropriateness of the penalty in determining whether to grant the grievance.**

A Guide To The Disciplinary Process

M. The procedures for the review of recommendations for discipline, such as Command Channel Review, and the procedures by which officers represented by Lodge #7 may challenge the recommendation and imposition of discipline that currently exist, such as the Discipline Screening Program, Direct Appeal to the Superintendent, the Police Board, etc., will continue to exist and be available to said officers except as expressly modified or eliminated as set forth in the contract.

A Sample of the Sworn Affidavit

SWORN AFFIDAVIT FOR COMPLAINT REGISTER INVESTIGATION CHICAGO POLICE DEPARTMENT

STATE OF ILLINOIS)
) CC
COUNTY OF COOK)

Location of Incident	Date	Time
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I, _____ hereby state as follows:
Under penalties as provided by law pursuant to Section 1-109 of the Illinois Code of Civil Procedure, I certify that the allegations set forth in my complaint are true and correct, except as to any matters therein stated to be on information and belief and as to such matters, I certify as aforementioned that I verily believe the same to be true.

Print Complainant's Name

Print Witness's Name

Complainant's Signature

Witness's Signature

Date

Date

A Guide To The Disciplinary Process

When the investigation is completed the investigator will classify the complaint as one of the following:

Unfounded: the allegation is false or not factual.

Exonerated: when the incident occurred by the actions of the accused were lawful and proper.

Not Sustained: when the allegation is supported by insufficient evidence either to prove or disprove the allegation.

Sustained: when an allegation is supported by substantial evidence to justify disciplinary action.

If the IAD or OPS investigation determines that a Department member, whether on or off duty, has committed a violation of any Departmental rules, a multi-stage internal review process begins to examine the thoroughness of the investigation and the recommended sanction to be imposed upon the accused member. The conclusions of these internal reviews are advisory to the Superintendent of Police, who makes the final determination as to what penalty shall be ordered.

In the case of a sustained finding under section F, was the affidavit obtained in a good faith effort and in a reasonable amount of time? This is subject to the grievance procedure.

In the case of a sustained finding under section H, where the affidavit is signed by the head of IAD/OPS was the type of evidence enough to justify the head signing the affidavit? This is subject to the grievance procedure.

3. Conclusion of the investigation, sustained finding, recommended penalty:

A. Recommended penalties of one (1) to fifteen (15) days the officer will have two options:

1. Accept the recommended penalty; or

2. Choose the Disciplinary Screening Program (DSP)

If the officer chooses the DSP he/she **must notify the Lodge** and the Lodge will request the C.R. file. The officer will then have an opportunity to review the file with an officer of the Lodge. An officer of the Lodge will meet with a representative of the Department and review the selected files in an attempt to reach an agreement on the findings and/or the recommended discipline. If an agreement is reached that recommendation will then be forwarded to the officer who will have **two options:**

a. Accept the recommended penalty arrived at by the DSP, this selection is binding on the Superintendent who can only decrease the penalty or grant options when appropriate.

b. Request a Police Board review

If the recommendation of the DSP is rejected and the recommended penalty is one (1) to five (5) days the officer will serve the suspension. After the suspension is served the officer can then proceed to the grievance procedure.

(The Lodge recommends that you request the DSP.)

A Guide To The Disciplinary Process

B. If the recommended penalty is six (6) to fifteen (15) days the officer has the option of Police Board Review. This is a paper review (“To-From” report) directed to the Police Board with the goal of changing the finding or reducing the recommended penalty. The Lodge will assist the officer in writing the appeal to the Police Board.

The decision of the Police Board is final and cannot be changed by the Department. If the Police Board decision is to sustain the recommended discipline then **the officer will serve the suspension and the officer then has the right to file a grievance and proceed through the grievance procedure. The grievance is filed under contract section 8.1 “just cause.”**

C. Officers who receive a recommendation for discipline from sixteen (16) to thirty (30) days as a result of a sustained C.R., who wish to challenge that recommendation, shall have one of four options. Within **ten (10) working days** of receiving the recommendation for discipline, the officer shall elect one of the following options:

1. A direct appeal to the Superintendent as set forth in section 8.5 of the contract; or
2. A review by the Police Board as set forth in the Police Board’s Rules of Procedure, article IV. Section B, paragraphs 3 through 9. (published 01 November 1975); or
3. File a grievance challenging the recommendation for discipline; or
4. Accept the recommended discipline.

*(*** The Lodge recommends that you request option 1, and then, if you are unsuccessful, proceed to option 2. The Lodge will always recommend that you exercise all your options by starting at the first level of appeal. It is important to add your version of events to the investigative file, each time the opportunity is afforded. When a Complaint Register file is presented to an independent Arbitrator/Mediator if you have not appealed to the Superintendent and the Police Board there will be no documents authored by you in the Grievance file presented on your behalf. Your failure to respond in a timely manner will be considered an acceptance of the recommended discipline. ***)*

When an officer elects to file a grievance the Lodge will have forty five (45) days from the receipt of the investigative file to inform the Department whether the Lodge will advance the grievance to arbitration, and if so, whether the grievance will be advanced to “full” or “fast track” arbitration. When “fast track” arbitration is selected by the Lodge, the grievant officer **WILL NOT** be required to serve the recommended suspension until the arbitrator rules on the merits of the grievance. When “full” arbitration is selected by the Lodge, the grievant officer **WILL** serve the suspension prior to the arbitrator’s decision.

In the event the Lodge decides not to advance the grievance to arbitration, the officer will have ten (10) working days to elect review of the recommendation for suspension as set forth in paragraphs 1 and 2 above.

A Guide To The Disciplinary Process

D. Officers who receive a recommendation for discipline from thirty one (31) to three hundred sixty five (365) days as a result of a sustained C.R., who wish to challenge that recommendation, shall have one of the four options. **Within ten (10) working days** of receiving the recommendation for discipline the officer shall elect one of the following options:

1. A direct appeal to the Superintendent as set forth in section 8.5 of the contract; or
2. A review by the Police Board as set forth in the Police Board's Rules and Procedure, Article I, II and III, (published 01 November 1975); or
3. The filing of a grievance challenging the recommendation for discipline; or
4. Accept the recommended discipline.

*(See note *** previous page)*

(In above paragraphs C and D it is the recommendation of the Lodge that the affected member selects option #3, files a grievance and proceeds through the grievance process.)

This agreement does not create or convey to any member of the bargaining unit a right to determine whether any grievance shall be advanced to arbitration. The right to evaluate any grievance and determine whether the grievance is withdrawn, settled or advanced to any form of arbitration remains solely the right of the Lodge. In the event the Lodge determines it will not advance any grievance(s) to arbitration the officer(s) who filed the grievance(s) will be afforded the existing procedures for the review and/or challenge of recommendations of discipline.

An officer who receives a recommendation for a suspension of sixteen (16) three hundred sixty five (365) days or an officer who served a suspension of one (1) fifteen (15) days can file a grievance.

The grievance is filed under contract section 8.1 "just cause."

The Police Board

In cases where the Superintendent seeks an officer's separation from the Department, the Superintendent's current and past practice of suspending officers for thirty (30) days and filing charges with the Police Board seeking an officer's separation, will not change.

An Overview

The Mayor of Chicago appoints the nine members of the Chicago Police Board with the advice and consent of the City Council.

Additionally the Board employs a full-time executive director, a supervising clerk and three attorneys, who serve as hearing officers on a part-time basis.

The Board has been empowered to regulate certain activities of the Chicago Police Department. This authority derives from the Illinois Compiled Statutes, the Municipal Code of Chicago, and pertinent court decisions. These powers include the following:

The Board, through its Hearing Officers, conducts evidentiary hearings, and makes formal decisions, in cases in which the Superintendent has filed charges seeking to discharge a member. The Board considers suspension reviews and appeals from officers facing suspensions from six (6) days through three hundred sixty five (365) days.

The Board is responsible for monitoring the Police Department's and the City's compliance with the terms of the U.S. District Court First Amendment Consent Decree and Judgment Order. Pursuant to a decision of the United States Court of Appeals for the Seventh Circuit, a significantly revised decree was entered in March, 2001.

In 2002 the Police Board reviewed cases challenging the sustained findings and penalty recommendations in 52 cases. The Police Board not sustained 12 cases and lowered the penalty in 13

cases. The Police Board in 25 out of 52 cases changed the results of the case.

In 2003 the Police Board reviewed cases challenging the sustained findings and penalty recommendations in 50 cases. The Police Board not sustained 12 cases and lowered the penalty in 10 cases. The Police Board in 22 out of 50 cases changed the results of the case.

Separation Cases

If the Superintendent seeks to discharge a member, the Board, through its Hearing officers, holds an evidentiary hearing. Attorneys from the City of Chicago Department of Law represent the Superintendent and present evidence against the member. The accused officer has full due process rights, including the right to be represented by Counsel, to examine and cross examine witnesses, and to present evidence in defense. Under Illinois law, the Board has subpoena powers, which is an important asset enabling the Board to conduct thorough hearings. Attorneys for the Superintendent and the accused can and do use these subpoenas to ensure that witnesses appear at these hearings.

The Board uses three Hearing Officers to preside over these hearings. Cases are assigned to each on a rotating basis. The Hearing Officers are all experienced attorneys in private practice who serve in these positions on a part-time basis. These proceedings are transcribed by a certified court reporter and videotaped so that Board members may view the videotapes and assess the demeanor and credibility of the witnesses. Each member of the Police Board receives a set of copies of the transcripts of each hearing as well as the videotapes.

Board members read the transcript of each hearing and view the videotapes, prior to convening in a monthly closed

The Police Board

executive session to deliberate the matter. The Hearing Officer is present during these deliberations to offer observations and answer any questions that might arise.

At the conclusion of these deliberations, the Board may find the accused member guilty, and order discharge; it may find the member guilty and order a lesser penalty, a suspension of some duration; or it may find the accused member not guilty.

Whether as a result of a hearing or a stipulated settlement, at least five members of the Police Board must agree before any disciplinary action can be taken.

Appealing a Police Board Decision

A decision of the Police Board in a discharge case **is not subject to the Superintendent's approval, nor may a member challenge it through the grievance process.** A Board decision may however be appealed in the Circuit Court of Cook County, generally through what is referred to as a Suit in Administrative Review. By law only parties to the case, the Superintendent, or the affected member may appeal a Board decision.

If either side is dissatisfied with the decision of the Circuit Court, he/she may appeal the matter to the Illinois Appellate Court. A person who receives an adverse decision at that level may attempt a further appeal to the Illinois Supreme Court. However, that court has the discretion to determine whether or not it will allow such an appeal onto its docket. Such permission is rarely granted. Only one Police Board case has been heard by the Illinois Supreme Court in the past sixteen years.

In 2002, 13 Police Board cases were contested through suits and the Cook County Circuit Court reversed one decision and the Appellate Court reversed none.

In 2003, eight Police Board cases were contested through suits and the Cook County Circuit Court reversed two decisions and the Appellate Court reversed none.

No cases were heard by the Illinois Supreme Court during this time.

There is no grievance procedure for separation cases.

Interacting with I.A.D. and O.P.S.

	I.A.D. Internal Affairs Division	O.P.S. Office of Professional Standards
Location	3510 South Michigan 5th Floor 745-6125	10 West 35th Street 12th Floor 745-3594
Types of Complaints Handled	Narcotics use, corrup- tion, insubordination, and all other allegations not covered by O.P.S.	Complaints of excessive force are the primary al- legation
Command Structure	Assistant Deputy Superintendent Investigators are sworn personnel and the unit divides into two sec- tions: Special and Gen- eral Investigations	Civilian Chief Administrator Investigators are civilian personnel

Receiving Your Allegations

Once a C.R. is obtained against an officer and the investigation is at the stage where a response is required from the officer, you will be given three Department forms;

1. REQUEST FOR INTERVIEW/STATEMENT/REPORT. This form will explain to whether you are requested to give an oral question/answer statement or a “To-From” response.

2. NOTIFICATION OF CHARGES/ALLEGATIONS

This form will have the accused officer’s name; rank and star number at the top of the form and the narrative portion will contain the allegations against the officer.

3. WAIVER OF COUNSEL/REQUEST TO SECURE LEGAL COUNSEL

This form will contain two options and the officer must choose one of the options.

Waiver of counsel which states that the officer understands the allegation against the officer and wishes to proceed without counsel; or

Interacting with I.A.D. and O.P.S.

Request to Secure Legal Counsel which means that the officer wishes to secure Legal Counsel before proceeding with the interview or writing the “To-From.” This gives you 72 hours before you must turn in your “To-From” or go for the interview.

DO NOT be talked into checking the waiver of counsel box; it is your right to be represented by counsel, **do not give up a right that we have won by contract. ALWAYS CHECK THE BOX TO SECURE LEGAL COUNSEL.**

Before you respond to allegations you must be provided with a copy of the signed affidavit. If there is not a signed affidavit then you are not required to respond. When a “To-From” is required and you have not seen the affidavit have your supervisor call IAD/OPS and they will fax a copy to your unit. When you give an oral statement the attorney will make sure that you see the affidavit before you begin your statement.

1. “To-From” required as a response to the allegations.

A. The following disclaimer is found in your F.O.P. handbook. This disclaimer should appear as the first paragraph of your “To-From.”

This statement is not being given voluntarily but under duress. I am only giving this statement at this time because I know that I could lose my job if I refuse. This statement should not be considered a verbatim statement but only a summary of requested information.

B. If you are given a direct order by a supervisor to write the “To-From” then use this disclaimer.

The following disclaimer also is found in your F.O.P. handbook. This disclaimer should appear as the first paragraph of your “To-From.”

*This statement is not being given voluntarily but under duress. I am only giving this statement at this time because I know that I could lose my job if I refuse. **I have been given a direct order to submit this report by -----.** This statement should not be considered a verbatim statement but only a summary of requested information.*

C. Write/type in the narrative addressing the allegations. You can call the Lodge during business hours and a Lodge officer will assist you in writing your “To-From” report or you can come into the Lodge office during business hours and a Lodge officer will assist you in completing your report. If a response is required because of an emergency situation you can call 1-312-733-7776 after hours and the answering service will page the on duty officer for assistance.

Interacting with I.A.D and O.P.S.

2. When you are required to give an oral (question and answer) statement at IAD/OPS.

- A. Call F.O.P. so that the Lodge can have an attorney accompany you when you give your statement. You will need to give the Lodge the following information: the C.R. number, allegations, date and time of interview, name of the person requesting the interview. Lodge attorneys are available from 0600-1800 hours, if the request for your statement is outside of these hours ask IAD/OPS to change the scheduled time, if you have a problem call the Lodge and an officer will assist you.
- B. You will meet the Lodge attorney in the lobby of Police Headquarters for IAD or in the lobby of the I.I.T. building for OPS.
- C. The Lodge attorney will take you in for your interview and advise you during the interview. The Lodge attorney will request that a signed affidavit be produced prior to the interview.
- D. After the interview **it is your right to receive a copy of your statement** before you leave, make sure that you exercise that right.
- E. Fax copies of the allegations and statement to the F.O.P. office at 312-733-1367 attention to Kathy Moore.

When writing a “To-From” in response to allegations, the following order (G.O. No. 16) and this excerpt from “Together We Can” can be cited. These state that a recommended punishment should take into consideration the motive of the officer. Was the offense a result of ignorance, forgetfulness, oversight or the pressure of everyday life? The discipline system must punish the intentional violators but offer counseling and training for officers who err unintentionally.

Discipline - Discipline has never been synonymous with punishment. Over the years, however, the Department's approach to discipline has become largely punitive, and has ignored the important principle that discipline has both positive and negative aspects that go far beyond punishment. In the future. our disciplinary system must do a better job of differentiating between intentional violations of Department values and policies. and mistakes made in a good-faith attempt to solve a problem or serve the community, Our disciplinary system must Quickly and decisively punish the intentional violators, For people who err unintentionally. we must provide counseling and development. Widespread or recurring problems will need to be corrected through better training. not always through harsher punishments. - Our, disciplinary system must be flexible enough to encompass a range corrective actions. In addition, it must provide greater discretion and responsibility to line supervisors to handle disciplinary situations that do not involve serious violations.

Interacting with I.A.D. and O.P.S.

25 April 1960
General Order No. 16

DISCIPLINARY PROCEDURES

A well-disciplined force is not a well punished one but, rather, a force that voluntarily conforms to all Department Rules, Regulations, and Orders. It follows that the best disciplined Force is least in need of punishment and therefore it is the least punished force.

The violation of Rules, Regulations, and Orders nevertheless requires disciplinary action. In recommending punishment, however, a motive of the offender will be considered. Was there an evil, dishonest, immoral or selfish motive, or did the violation result inadvertently from a non-venal human frailty such as ignorance, forgetfulness, oversight, or the pressures of domestic life complicated by the misfortunes to which we are all heir?

Let Justice be tempered with Mercy when the Heart of the offender is Right.

O.W. Wilson
Superintendent
Chicago Police Department

The Mediation Process

From the F.O.P. Contract Section 6.12

At any time during a C.R. investigation, **prior to an accused officer giving a statement**, the parties may agree to mediate the resolution of the C.R. investigation. The “parties” shall mean the accused officer, with or without his union representative, and a representative of IAD or OPS, as appropriate. **The IAD/OPS investigator assigned to the case will not be present at mediation.**

Prior to the mediation session, IAD/OPS shall cause the accused officer to be served with Notice of Administrative Rights and Notice of Charges and Allegations, which will include the rule violation and the factual basis therefore. Neither party is required to meet.

The representatives at the meeting shall discuss the allegations and the Depart-

ment’s position regarding the finding in the case. The parties shall discuss whether they can reach accord as to a disposition. By accepting the discipline, the member is waiving his right to grieve or appeal the decision and the member is not required to submit any written statement or response. If the member does not agree with the Department’s position the disciplinary process will continue as designated.

Statements made and information relayed at the mediation which is not included in the file will not be used against the officer or included in the file at a later date.

If the Department and the officer agree on a penalty less than separation, it is binding on both parties. However, the Superintendent retains the right to separate an officer.

Police Shootings and Other Serious On/Off Duty Incidents

Police Shootings

Immediately call F.O.P. no matter what time of the day at 1-312-733-7776, when you call after business hours you will reach the answering service they will call the On-Call Lodge officer. The officer will then call you back or you will talk with the Lodge officer through the answering service's three-way call. Information you need to have ready:

1. The location of the scene
2. Names of the officer(s) involved
3. Phone number to reach the officers
4. Brief synopsis of the incident

The On-Call Lodge officer will respond to the scene. The officer(s) involved in a shooting **must give a brief summary to the first supervisor on the scene.** The involved officer(s) **must conduct a walkthrough of the incident with the on-duty ADS.** The officer(s) **can ask the ADS to delay the walk through** until the arrival of the Lodge representative and the ADS will comply.

After the walk through with the ADS is completed all involved officer(s) will proceed to the appropriate Police Area where the investigation will continue.

In the event of a Police shooting where a subject has been shot or other serious incident a round table will be conducted. The Lodge officer will assist all involved officers in the completion of any required reports and in the round-table.

If the Department obtains a C.R. on the involved member because of the shooting incident and the allegation is administrative, the officer will give no further statements because of the officer's right to seventy two (72) hours to retain Legal Counsel. Any other statements will be given at a later date with a Lodge attorney present. If an attorney is present then you would be required to give a statement at that time.

If an officer involved in a shooting incident is going to be given criminal rights for an allegation of misconduct then the On-Duty Lodge officer will immediately call out a Lodge attorney to represent the accused officer.

The Lodge officer will be with all involved officer(s) at the round table to make sure that your rights are not violated.

Police Shootings and Other Serious On/Off Duty Incidents

Vehicle Pursuits

If you are involved in a vehicle pursuit that results in serious injury or a fatality immediately call the Lodge. Under Department G.O. 97-3 Add. 2, Section IV. you will be required to attend a “debriefing session”. It is the Lodge’s position that **this session is a Department investigation** and there is no question that as a result of something you may say at the debriefing, discipline may be imposed against you.

1. If you are involved in a vehicular pursuit and are requested to attend a “DEBRIEFING SESSION” you should immediately request union representation prior to attending this session.
2. This request will ensure your “Weingarten Rights” to representation and protect you against any improperly imposed discipline during any future proceedings.

Members must be cognizant of the fact that motor vehicle pursuits are a serious matter with a potential for death and/or injury to the officers, persons in the vehicle being pursued and/or innocent persons in the area. An officer involved in a motor vehicle pursuit must be prepared to justify his/her actions.

Use of Force

Assailant	Actions will likely cause death or serious physical injury	Subject's Actions: Probable Control Difficulty / Danger									
	Actions will likely cause physical injury										
	Actions are aggressively offensive without weapons										
Resister	ACTIVE Movement to avoid physical control <i>Variable Dynamics</i>										
	PASSIVE Non-movement in response to verbal and other direction <i>Variable positioning</i>										
Cooperative Subject	Subject(s) cooperative, only in response to direction <i>Variable Risk</i>										
	Subject(s) cooperative without direction <i>Variable Distance</i>										
Officer's Reaction: Probable Reversibility / Control / Tissue Damage											
Social Control: Presence of Law Enforcement Representative											
Used Alone							Used with means of physical control				
Used Alone			Verbal Control: Persuasion / Advice / Warning								
Used Alone			Used with means of physical control								
			Control Modes Without Weapons			Firearms and Other Lethal Force					
			Holding	Stunning	Direct Mechanical						
			Pain Compliance/ Neuro Muscular	Diffused pressure striking	Direct body mechanics against body structure						
			Control Modes with Weapons								
			Control Instruments	Impact Weapons Impact Munitions							
			Supervisory Approval Required	OC Spray/Chemical Weapons							
			Taser *								
			Canine **								

Note: With permission of the authors, the Use of Force Model has been modified to conform with the Chicago Police Department General Order entitled "Use of Force Guidelines."

- * See addendum entitled "Force Options" for specific conditions on the use of tasers.
- ** See addendum entitled "Canines as a Force Option" for specific conditions on the use of canines.

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USE OF FORCE

Whenever a member has a physical encounter with a person on or off duty a Tactical Response Report (T.R.R.) must be completed. There is no excuse for failing to complete the report and the member will be disciplined for failure to complete the T.R.R. The members' response must be in line with the Use of Force model. Your actions must correspond to the offender's actions on the Use of Force Chart. Your actions can always be lesser than allowed but you can never use greater force than allowed by the offender's actions.

When you generate a T.R.R. always include the disclaimer found in your F.O.P. handbook or at the back of this book. Type the disclaimer in box #40 on the T.R.R.


Non-Disciplinary Intervention

See the entire Training Bulletin (ETB 04-04) on the CPD Intranet

A Knowledge Resource for Chicago Police Department Members

Education & Training Bulletin

Related Documents: The D.N. entitled, "Non-Disciplinary Intervention Pilot Program"
Distribution: All Sworn Department Members
Contributors: Lt. Cathleen Rendon, Lt. Michael Mealer, Training Officers Diane Livingston and Erin Geary
Release Date: **AUGUST 2004**



ETB 04-04

Philip J. Cline, Superintendent of Police William D. Shaver, Assistant Deputy Superintendent

NON-DISCIPLINARY INTERVENTION PILOT PROGRAM

PILOT PROGRAM OVERVIEW

It is the policy of the Chicago Police Department to treat all members of the community with courtesy, respect, dignity and professionalism. When a Department member fails to behave professionally toward the community, that member's actions create a negative impression of the Department and the City. Therefore, the Department has an obligation to the community to address incidents of unprofessional behavior by sworn members.

In the past, reports of unprofessional conduct were automatically investigated through the Complaint Register (CR) process in the same manner as accusations of serious transgressions. The structure of the disciplinary process limited the Department's ability to directly intervene and provide timely training to its officers involved in program-eligible incidents. The Non-Disciplinary Intervention Pilot Program, established under Department Notice 04-17, is designed to provide an effective system to manage citizen assertions of unprofessional conduct by sworn members through supervisory intervention and meaningful training.

The goal of this pilot program is to establish a non-disciplinary alternative to the Complaint Register process while simultaneously allowing sworn members to improve their communication skills. Through discussion, supervisory guidance, and intervention, this program reinforces the skills officers need to successfully meet the challenges of law enforcement.

WHAT CONSTITUTES PROGRAM-ELIGIBLE CONDUCT?

- Any remark, commentary, behavior, or action that is overtly insulting, belittling, or mocking.
- The remark or behavior must be by a sworn member directed to any citizen who is not a Department member.

WHAT IS EXCLUDED IN THIS PROGRAM?

- Any remark or behavior that is so extreme in nature, and/or occurred with such wide public exposure, that it could substantially discredit not only the member, but the Department as a whole.
- Incidents that are accompanied by another allegation of misconduct.
- Incidents involving an unidentified member.
- Incidents reported prior to 01 May 2004, the effective date of the Department Notice entitled "Non-Disciplinary Intervention Pilot Program" (D.N. 04-17).

KEY POINTS

" Supervisors will continue to obtain Complaint Register (CR) numbers when the circumstances of a particular incident require doing so.

" If a conflict exists between D.N. 04-17 and G.O. 93-3, "Complaint and Disciplinary Procedures," then D.N. 04-17 will take precedence.

Non-Disciplinary Intervention Pilot Program Verbal Abuse

In the past all complaints of verbal abuse were taken through C.R. numbers. If these allegations were one on one, they were generally "not sustained." This finding was retained in the officer's Discipline History for seven years. Under this order an officer could receive five verbal abuse complaints before a C.R. number is obtained. In the past the officer could have five not sustained C.R. numbers in the officer's discipline history enabling the Department to use those not sustained cases to justify a larger penalty against the officer. Members have the ability to contest every verbal abuse complaint by submitting a "To-From" report to the Commander of the Personnel Division contesting the verbal abuse. The Commander of Personnel will

Non-Disciplinary Intervention

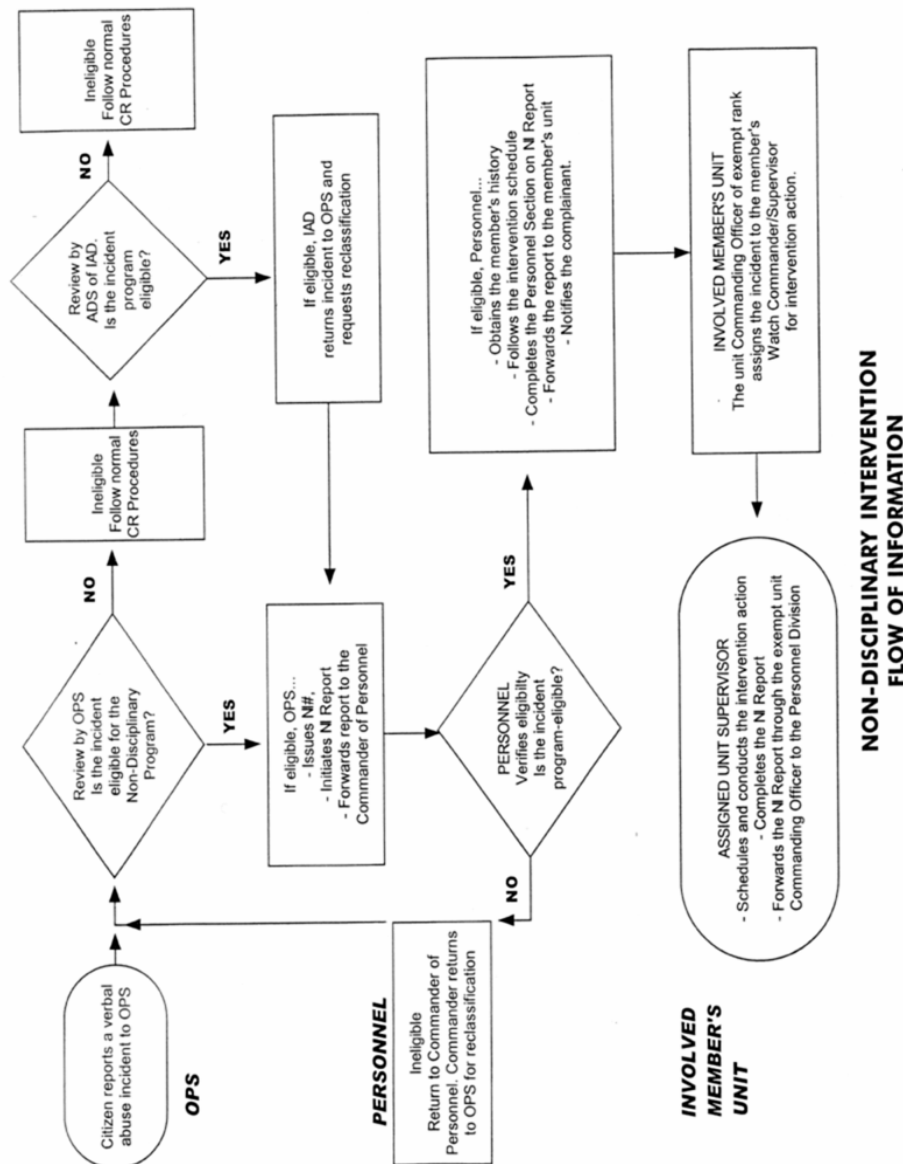
Verbal Abuse (cont)

review the report and the complaint and if the verbal abuse complaint is not warranted the case is administratively closed and will not count against the officer.

After the fourth incident a member can be placed in the Behavioral Intervention System or the Personnel Concerns Program and the fifth incident can result in a member being scheduled for a Psychological Fitness for Duty Evaluation. Members can be placed in either of these programs at anytime by a Commander for any number of reasons.

Both of these programs have been arbitrated by the Lodge and arbitrators have ruled that these programs are not discipline because the affected member suffers no monetary loss.

Non-Disciplinary Intervention -- Flow of Information



Summary Punishment Action Request

When an officer receives a Summary Punishment Action Request (SPAR) there are two options:

1. Accept the recommended penalty
2. Request a hearing

When an officer requests a hearing, the hearing will be with the officer's commanding officer of exempt rank. The commander will conduct a hearing with the officer.

If a satisfactory resolution is not reached the officer can request another hearing. This hearing will be with the next higher exempt rank officer.

The exempt rank officer (Deputy Superintendent, Assistant Deputy Super-

intendent or Deputy Chief of exempt rank) will conduct a hearing with the officer.

If the issue is not resolved the officer will receive the penalty.

After summary punishment has been administered three (3) times within a twelve (12) month period, a member who wishes to contest the application of summary punishment on a fourth occasion within the last twelve (12) months may do so by a timely challenge through the Complaint Register process or the grievance procedure.

Also see G.O. 93-3-7

Discipline Screening Program

From the FOP Contract Appendix Q
Discipline Screening Program

1. When a Complaint Register (CR) investigation is sustained and the accused is a member of the bargaining unit and the recommendation for discipline is a fifteen-day (15) suspension or less, the accused member will be notified of the Screening Program option.
2. The Department will forward to the member notification of the sustained finding and recommendation for discipline. The member will be advised that he or she may accept the recommended discipline or request the Screening Program option. This notification will be returned within seventy-two (72) hours to the Internal Affairs Division.
3. When the member requests the Screening Program option, he or she will be notified of the date the Screening Committee will meet and of the right to review the investigative file prior to the screening date. The member will appear at either the Office of Professional Standards or the Internal Affairs Division to review the investigative file. The member may make written or audiotape recorded notes, but may not remove or make copies of any part of the investigative file.
4. At the Screening Committee Meeting, a representative of the Lodge and a representative of the Department will meet and review the selected files and attempt to reach an agreement on the findings and/or the recommendation for discipline. If an agreement is reached, the representative of the Department will submit the agreed-upon disposition to the Assistant Deputy Superintendent, Internal Affairs Division or the Chief Administrator, Office of Professional Standards for approval. If approved, the representative of the Lodge shall contact the member for his or her agreement and approval of the agreed-upon disposition.
5. If all parties agree, the agreed-upon disposition will be forwarded to the Superintendent for final approval. The Superintendent will retain only the right to decrease the agreed-upon suspension and/or grant options when appropriate. The Superintendent will not increase the agreed-upon suspension or impose a suspension contrary to the agreed-upon disposition of the Committee.
6. In the event the member accepts the Committee's agreement, he or she will sign a waiver of the right to the filing of a grievance of the suspension. In the event the member rejects the Committee's agreement, he or she will sign a rejection of the Committee's agreement.
7. If the Superintendent imposes discipline, the bargaining unit member retains the right to file a grievance if he or she wishes to do so.

Also see G.O. 93-3 and FOP Contract pg. 12, Section 6.10

Civil Lawsuits

Definition

The City of Chicago must represent an officer being sued civilly for actions taken in the performance of his/her duty whether the actions are on or off duty. The City of Chicago must provide legal representation for the officer and the officer must cooperate with the City of Chicago and their legal counsel. The conversations that the officer has with the City attorney have the confidentiality of attorney/client privilege. The City of Chicago must pay for damages or monies levied against the officer.

The key to indemnification is; **in the performance of duty, you must iden-**

tify yourself as a police officer, you must be taking police action and the action can be on or off duty. It does not matter if the performance of duty occurs while working an off duty job.

If the City of Chicago chooses not to indemnify an officer then **the officer must notify the Lodge to obtain legal counsel and immediately file a grievance.** The Lodge attorney will represent the officer until the grievance is resolved. **As in all cases representation must be approved by a Lodge officer and the Legal Defense Committee.**

The Process

When an officer(s) is served with a civil summons notifying the officer that he/she is being sued civilly, the officer(s) must write a "To-From" to the Superintendent of Police, the "To-From" must briefly state that the officer has been served with a civil lawsuit, and must include the lawsuit number, and the date and time the officer was served. This "To-From" notifies the Department and City of Chicago that the officer was served with a civil lawsuit.

The City of Chicago Corporation Counsel assigns the case to an attorney who represents the officer(s). The Corporation Counsel will notify the offi-

cer(s) to report to the Corporation Counsel's office and the officer(s) and the attorney will review the case and prepare for court. The case can be settled by the City or proceed to trial. If the case goes to trial the officer(s) can be detailed to the Corporation Counsel's office for the duration of the trial and the officer(s) tour of duty is served at the Corporation Counsel's office. If the officer(s) are detailed then normal overtime would apply. The first eight hours are straight time and any hours after that are earned at time and a half pay.

The detail concludes at the end of the civil trial.

Civil Lawsuits

The Contractual Rights Of The Officer

From the FOP Contract

ARTICLE 22 -- INDEMNIFICATION

22.1 Employer Responsibility

The Employer shall be responsible for, hold officers harmless from and pay for damages or monies which may be adjudged, assessed, or otherwise levied against any officer covered by this agreement subject to the conditions as set forth in Section 22.4.

22.2 Legal Representation

Officers shall have legal representation by the Employer in any civil cause of action brought against an **officer resulting from or arising out of the performance of duties.**

22.3 Cooperation

Officers shall be required to cooperate with the Employer during the course of the investigation, administration or litigation of any claim arising under this article.

22.4 Applicability

The Employer will provide the protections set forth in Sections 22.1 and 22.2 above so long as the officer is acting within the scope of his/her employment and where the officer cooperates, as defined in Section 22.3, with the City of Chicago in defense of the action or actions or claims.

See samples of Civil Suit Indemnification To/From and Disclaimers at back of this book.

Access to Disciplinary Files

From the FOP Contract page 168

Franczek · Sullivan · Mann · Crement · Hein · Relias P.C.

SUITE 3400 300 SOUTH WACKER DRIVE CHICAGO, IL 60606-6785
312-986-0300 FAX 312-986-9192

July 11, 1996
Mr. Thomas J. Pleines
General Counsel
F.O.P., Chicago Lodge No. 7
600 West Fulton Street, Suite 300
Chicago, Illinois 60661

Re: Access to Disciplinary Files

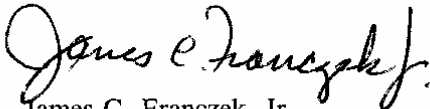
Dear Tom:

This letter confirms our understanding at negotiations regarding the Lodge's access to disciplinary files. In connection with the Complaint Review Process ("CRP") or Discipline Screening Program, the Department will provide copies to the officially designated representative of the Lodge of the relevant disciplinary file of a person who is scheduled to appear before a Complaint Review panel. The Department will provide these files on the basis of the assurance from the Lodge that it will not duplicate or otherwise pass on to any other persons contents of the file.

The Department reserves the right to discontinuing providing disciplinary files if it has reasonable cause to believe that access to such files has been abused.

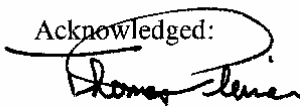
If this understanding confirms with yours, please so indicate by signing in the space provided in this letter.

Very truly yours,



James C. Franczek, Jr.
Chief Labor Negotiator
City of Chicago

Acknowledged:



Thomas J. Pleines
General Counsel, Lodge No. 7

Grievances

Filed Under Contract Section 8.1 “Just Cause.”

JUST CAUSE, SEVEN KEY TESTS

Arbitrator Carroll R. Daugherty has reduced the basic elements of just cause to seven tests. These tests, in the form of questions are relied upon as an extremely practical approach to testing the “Just Cause Standard.”

Keep in mind that a “**NO**” answer to one or more of these questions indicates that the “Just Cause Standard” was not satisfied or it was seriously weakened in that some arbitrary, capricious, or discriminatory element was present.

1. **NOTICE:** Did the employer give the employee forewarning, or foreknowledge of the possible or probable consequences of the employee’s disciplinary conduct?
2. **REASONABLE RULE OR ORDER:** Was the employer’s rule or managerial order reasonably related to:
 - A. The orderly, efficient, and safe operation of the employer’s business, and
 - B. The performance that the employer might properly expect from the employee?
3. **INVESTIGATION:** Did the employer, before administering the discipline to an employee, make an effort to discover whether the employee did in fact violate or disobey a rule or order from management?
4. **FAIR INVESTIGATION:** Was the employer’s investigation done fairly and objectively?
5. **PROOF:** At the investigation, did the judge obtain substantial evidence or proof that the employee was guilty as charged?
6. **EQUAL TREATMENT:** Has the employer applied its rules, orders, and penalties even handedly and without discrimination?
7. **PENALTY:** Was the degree of discipline administered by the employer in a particular case reasonably related to:
 - A. The seriousness of the employee’s **PROVEN** offense; and,
 - B. The record of the employee in his service with the employer?

The Grievance Procedure

From the FOP Contract Section 9.6

Section 9.6 -- Suspension Grievances.

Grievances challenging a recommendation for suspension (excluding Summary Punishment except as specified in Section 7.2 and suspensions accompanied by a recommendation for separation) will comply with the following procedures:

A. Suspensions from Sixteen (16) to Thirty (30) Days.

Officers who receive a recommendation for discipline from sixteen (16) to thirty (30) days as a result of a sustained Complaint Register investigation (CR#) shall have one of four options. Within ten (10) working days of receiving the recommendation for discipline the officer(s) shall elect one of the following options:

1. A direct appeal to the Superintendent as set forth in section 8.5 of the Agreement; or
2. A review by the Police Board as set forth in the Police Board's Rules of Procedure, Article IV, Section B. paragraphs 3 through 9 (published November 1, 1975); or
3. The filing of a grievance challenging the recommendation for discipline; or
4. Accept the recommendation.

In the event an officer does not make an election within ten (10) working days, the recommendation for suspension will be reviewed by the Police Board.

When an officer elects to file a grievance, the Lodge will have forty-five (45) days from receipt of the investigative file to inform the Department whether the Lodge will advance the grievance to arbitration, and if so, whether the grievance will be advanced to "full", "fast track" or "Summary Opinion" arbitration. When "Summary Opinion" or "fast track" arbitration is selected by the Lodge, the grievant officer will not be required to serve the recommended suspension until the arbitrator rules on the merits of the grievance. In the case where "Summary Opinion" arbitration is selected when the Arbitrator's summary opinion is received, the Lodge and the Department will attempt to settle the grievance. If settlement is not possible, the grievant officer will serve his or her suspension and the grievance may be advanced to "full" arbitration. When "full" arbitration is selected by the Lodge, the grievant officer will serve the suspension prior to the arbitrator's decision in "full" arbitration.

In the event the Lodge decides not to advance the grievance to arbitration, the officer will have ten (10) working days to elect review of the recommendation for suspension as set forth in paragraphs 9.6.A.1 and 9.6.A.2 above.

In the event an officer does not make an election within ten (10) working days, the recommendation for suspension will be reviewed by the Police Board.

The parties will develop rules for the conduct of these "fast track" arbitrations. The parties will cooperate in the scheduling of all arbitration hearings.

B. Suspensions from Thirty-One (31) to Three Hundred Sixty-Five (365) Days.

Officers who receive a recommendation for discipline from thirty-one (31) to three hundred sixty-five (365) days as a result of a sustained CR# shall have one of four options. Within ten (10) working days of receiving the recommendation for discipline the officer(s) shall elect one of the following options.

1. A direct appeal to the Superintendent as set forth in section 8.5 of the Agreement; or
2. A review by the Police Board as set forth in the Police Board's Rules of Procedure, Article I, II and III (published November 1, 1975); or

The Grievance Procedure

3. The filing of a grievance challenging the recommendation for discipline; or
4. Accept the recommended discipline.

In the event an officer does not make an election within ten (10) working days, the recommendation for suspension will be reviewed by the Police Board.

When an officer files a grievance, the Lodge will have forty-five (45) days from the receipt of the investigative file to inform the Department whether the Lodge will advance the grievance to arbitration. In the event the Lodge advances the grievance to arbitration, the officer will not be required to serve the recommended suspension until the arbitrator rules on the merits of the grievance. These grievances, if not settled or withdrawn, will be adjudicated in “full” arbitration. The parties will cooperate in the scheduling of all arbitration hearings.

In the event the Lodge decides not to advance the grievance to arbitration, the officer will have ten (10) working days to elect review of the recommendation for suspension as set forth in paragraphs 9.6.B.1 and 9.6.B.2 above.

In the event an officer does not make an election within ten (10) working days, the recommendation for suspension will be reviewed by the Police Board.

C. Lodge Rights.

This agreement does not create or convey to any member of the bargaining unit a right to determine whether any grievance shall be advanced to arbitration. The right to evaluate any grievance and determine whether that grievance is withdrawn, settled or advanced to any form of arbitration remains solely the right of the Lodge. In the event the Lodge determines it will not advance of grievance(s) to arbitration, the officer(s) who filed the grievance(s) will be afforded the existing procedures for the review and/or challenge of recommendations of discipline.

**If you should need assistance in filing your grievance,
please call the F.O.P. offices.**

**Tim Fallon,
Grievance Chairman**

The Grievance Procedure

Copy of the Grievance Form: C.P.D. Form 11.642

GRIEVANCE REPORT		GRIEVANCE #:	
GRIEVANT DATA		All grievant officers must fill out this section completely and thoroughly, and then sign	
Grievant's Name (<i>if more than one (1) grievant, list separately in narrative</i>)		Star #	Date of Contract Violation (Suspension)
Grievant's Street Address		Zip Code	Date Step 1 Initiated
Home Phone # Pager # (Optional)	Unit of Assignment/Detail	Work Phone # (Bell)	Work Phone # (PAX)
Employee #	Grievant's Signature		
S T E P 1	STATEMENT OF GRIEVANCE		Briefly state the circumstances giving rise to your grievance and the remedy you seek.
		
		
		
		
		
		
		
		
	Contract Section(s) Violated: _____ and related Articles		
S T E P 2	RESPONSE TO GRIEVANCE		
	Immediate Supervisor's Response		
		
		
		
	Immediate Supervisor's Signature		Date
	Exempt Rank / Unit C.O.'s Response to Grievance		
		
		
		
Response By — Exempt Rank, Signature, Star #		Date of Response	
MLAS Notification — Person Notified		Date of Notification	

Grievant's signature on this form authorizes the Fraternal Order of Police to request and receive any discipline files pertaining to this matter that may be in the possession of the City of Chicago.

CPD – 11.642 (Rev. 11/96) **White Copy**—Management and Labor Affairs Section; **Green Copy**—Management and Labor Affairs Section (To Be Forwarded to Lodge); **Canary Copy**—Unit Files; **Pink Copy**—Lodge's Unit Representative; **Gold Copy**—Grievant Officer
THIS COPY TO GRIEVANT OFFICER

Rights of Public Safety Officers

Garrity Rights

There are two rulings by the U.S. Supreme Court that are the basis for Garrity rights. In 1967 the case of Garrity vs. New Jersey, 385 U.S. 493 and in 1968 the case of Gardner vs. Broderick, 392 U.S. 273 were decided and a synopsis of these decisions are that a public employee can be ordered to answer **questions that are specifically, directly, and narrowly related to job duties**, under the threat of disciplinary action. However, if the employee responds to these questions, the answers may not be admitted in evidence against him in any subsequent criminal proceeding.

Even without administrative warnings, if an officer is coerced into making statements under pain of disciplinary action, his statements will be inadmissible later in any criminal case against him.

The employee may choose not to cooperate in the investigation. In such cases the employee may be lawfully disciplined, including termination, for insubordination. Or, the employee may

choose to answer the question posed. In this instance, the employee may still be disciplined for violating department rules even though the employee cooperates in the investigation. Additionally, the employee may be prosecuted for any criminal act that arose out of the misconduct, but any statements that the employer has compelled the employee to make may not be admitted into courtroom evidence.

Garrity and Gardner are the cornerstones of an officer's rights. **Garrity and Gardner thus created two separate rules.** **First**, if an employee is compelled to answer questions as a condition of his employment, the employee's answers and the fruits of the answers may not be used against the employee in subsequent criminal prosecution. **Second**, there exist affirmative limitations on an employer's ability to require answers to questions asked during an investigation. The questions must be "specifically, narrowly, and directly" tailored to the employee's job.

The Weingarten Rule

An employee may be represented by the union at an investigatory interview with his/her supervisor when the employee reasonably believes that the interview may lead to a disciplinary action.

U.S. Supreme Court Ruling

The right of employees to the presence of union representatives during investigatory interviews was announced by the U.S. Supreme Court in 1975 in NLRB vs. J. Weingarten, Inc. Since that case involved a clerk being investigated by the Weingarten Company, these rights have become known as Weingarten Rights.

Rights of Public Safety Officers

Weingarten Rules:

Under the Supreme Court's Weingarten decision, when an investigatory interview occurs, the following rules apply:

RULE 1

The employee must make a clear request for union representation before or during the interview. The employee cannot be punished for making this request.

RULE 2

After the employee makes this request, the employer must choose from among three options. The employer must:

- a. Grant the request and delay questioning until the union representative arrives and has a chance to consult privately with the employee; or
- b. Deny the request and end the interview immediately; or
- c. Give the employee a choice of: (1) having the interview without representation or (2) ending the interview.

RULE 3

If the supervisor denies the request for union representation and continues to ask questions, he/she commits an unfair labor practice and the employee has the right to refuse to answer. The supervisor cannot discipline the employee for such a refusal.

What is an investigatory interview?

Employees have Weingarten rights only during investigatory interviews. An investigatory interview occurs when a supervisor questions an employee to obtain information which could be used as a basis for discipline or asks an employee to defend his/her conduct. If an employee has a reasonable belief that discipline or other adverse consequences may result from what he/she says, the employee has a right to request union representation. Investigatory interviews usually relate to subjects such as:

Absenteeism	Insubordination
Drinking	Sabotage
Fighting	Work Performance
Poor Attitude	Damage To Property
Violation of Safety	Falsification Of Records
Rules	Lateness
Accidents	Violations Of Work Procedures
Drugs	

Rights of Public Safety Officers

Rights of Union Representatives

Supervisors often assert that the only role of a union representative at an investigatory interview is to observe the discussion, i.e., to be a silent witness. The Supreme Court, however, clearly acknowledged a union representative's right to assist and counsel workers during the interview. Decided cases establish the following procedures:

1. When the union representative arrives, the supervisor must inform the representative of the subject matter of the interview; i.e., the type of conduct for which discipline is being considered.
2. The union representative must be allowed to take the worker aside for a private pre-interview conference before questioning begins.
3. The union representative must be allowed to speak during the interview. The union representative however does not have the right to bargain over the purpose of the interview.
4. The union representative can request that the supervisor clarify a question so that the worker can understand what is being asked.
5. After a question is asked, the union representative can give advice on how to answer.
6. When the questioning ends, the union representative can provide information to the supervisor.

It must be emphasized that if the Weingarten rights are complied with, union representatives have no right to tell workers not to answer questions or to give false answers.

Rights of Public Safety Officers

Confidentiality Privilege of Union Representative

Public Act 094-0022

(735 ILCS 5/8-803.5 new)

Sec. 8-803.5. Union agent and union member.

(a) Except when required in subsection (b) of this Section, a union agent, during the agency or representative relationship or after termination of the agency or representative relationship with the bargaining unit member, shall not be compelled to disclose, in any court or to any administrative board or agency arbitration or proceeding, whether civil or criminal, any information he or she may have acquired in attending to his or her professional duties or while acting in his or her representative capacity.

(b) A union agent may use or reveal information obtained during the course of fulfilling his or her professional representative duties:

(1) to the extent it appears necessary to prevent the commission of a crime that is likely to result in a clear, imminent risk of serious physical injury or death of another person;

(2) in actions, civil or criminal, against the union agent in his or her personal or official representative capacity, or against the local union or subordinate body thereof or international union or affiliated or subordinate body thereof or any agent thereof in their personal or official representative capacities;

(3) when required by court order; or

(4) when, after full disclosure has been provided, the written or oral consent of the bargaining unit member has been obtained or, if the bargaining unit member is deceased or has been adjudged incompetent by a court of competent jurisdiction, the written or oral consent of the bargaining unit member's estate.

(c) In the event of a conflict between the application of this Section and any federal or State labor law to a specific situation, the provisions of the federal or State labor law shall control.

Effective Date: 1/1/2006

Behavioral Intervention Program

From the FOP Contract Appendix J

Behavioral Intervention System – Personnel Concerns Program

I. HEARINGS WILL BE ALLOWED FOR BOTH THE BEHAVIORAL INTERVENTION SYSTEM (BIS) AND THE PERSONNEL CONCERNS (PC) PROGRAM.

- A. The hearing is voluntary and must be requested by Department member.
 - 1. In the instance of the Behavioral Intervention System, a hearing must be requested within seven (7) working days of being presented with the Individualized Performance Plan (IPP) and the Behavioral Intervention System Counseling Record. The request for a hearing must be in writing to the Director of the Personnel Division.
 - 2. In the instance of the Personnel Concerns Program, a hearing must be requested within seven (7) working days of having attended a Personnel Concerns Conference. The request for a hearing must be in writing to the Director of the Personnel Division.

NOTE: Department members upgraded from the Behavioral Intervention System to the Personnel Concerns are not entitled to a hearing.

- B. The Department will set the hearing date and notify the affected Department member of the date.
- C. The hearing time will be as close as possible to the officer's regular duty hours (i.e., morning for 1st watch officers, afternoon for 3rd watch officers) and will not be on the officer's furlough, Regular Day Off, or previously planned day off (i.e. Baby Furlough Day, Personal Day, etc.) unless the officer agrees to such. Overtime will not be granted for the hearing.

II. HEARING PROCEDURES.

- A. The Department will explain its position for enrollment of the member in the Behavioral Intervention System or Personnel Concerns Program.
- B. The officer, or his or her representative, will present the officer's position.
- C. The Department representative may ask the officer questions.
- D. The officer's representative may question the officer.
- E. The Department representative will, within five (5) working days, notify the officer of his or her decision and that decision is final.

III. PLACEMENT DURATION (BEHAVIORAL INTERVENTION SYSTEM/ PERSONNEL CONCERNS) PLACEMENT IN EITHER PROGRAM IS FOR ONE (1) YEAR.

NOTE: Placement in either program may be extended past the initial year or, in the instance of the Behavioral Intervention System, be upgraded to the Personnel Concerns Program. Additionally, a member may be removed from either program prior to a year being completed.

Any member who is upgraded from the Behavioral Intervention System to the Personnel Concerns Program will be informed at the Personnel Concerns Conference that he or she may forward a To/From subject report to the Commander of the Personnel Division outlining the reasons the member feels this upgrade should not take place. In addition, any officer who extends past one (1) year in the Behavioral Intervention System or the Personnel Concerns Program may submit a To/From outlining the reasons he or she believes that they should not be retained in the program.

The aforementioned hearing procedures are not retroactive.

Psychological Evaluation

From the FOP Contract Appendix R **Procedures For Psychological Review**

Any officer covered by this Agreement who has been involuntarily removed from active duty for psychological reasons has a right to file a grievance pursuant to Section 9.4 of this Agreement. In order to achieve a fair and prompt resolution of such a grievance, the Lodge and the Employer agree that these procedures will be followed.

I. ISSUES FOR REVIEW

- A. Is the Grievant presently psychologically fit to perform the duties of a full duty police officer?
- B. Was the Grievant psychologically capable of performing the duties of a full duty police officer at the time he or she was removed from duty or at any time thereafter? If so, on what date?

The duties of a full duty police officer shall include the ability to perform the duties set forth in the following two paragraphs.

Police Officers, as part of and empowered by the community, protect the lives, property, and rights of all people, maintain order, and enforce the law impartially. They work in partnership with the community to respond to crime and neighborhood disorder. They work various shifts and days as assigned, patrolling an assigned beat by vehicle and/or on foot in order to observe conditions, intervene in observed situations that require their attention, and provide a visible presence to prevent crime from occurring. Police Officers respond to a variety of assignments such as crimes in progress, accidents, damage to property, and domestic and other disturbances. They may have to deal with unruly persons and overcome forceful resistance. They protect crime scenes until detectives or superiors arrive; examine the scene for

evidence, and question suspects, victims, and witnesses in order to gather information. Under Chicago's Alternative Policing Strategy (CAPS), Police Officers participate in and conduct neighborhood meetings to identify community concerns and work with supervisors and peers to analyze crime patterns and develop responses to criminal activity in an area.

Police Officers respond to a variety of emergencies and must pursue suspects on foot over a variety of terrain and obstacles. Police Officers prepare reports, recording all details of an incident; prepare arrest slips to start the booking procedure; and testify in court. Police Officers must possess the ability to physically control suspects and to safely discharge firearms to protect citizens and/or themselves. They perform a wide variety of other tasks, such as directing pedestrian or vehicular traffic, issuing traffic citations, and assisting sick and injured persons in a variety of ways. They perform all other related duties as required and directed in order to serve citizens by enforcing laws and protecting lives and property.

The Panel must find that an officer is either fit or unfit for full duty as a Police Officer. When an officer is found fit for full duty, the Panel may recommend that the Grievant participate in counseling. However, the Panel's recommendation may not be conditioned upon such participation.

II. INFORMATION AVAILABLE FOR REVIEW BY THE PANEL

- A. The Grievant must execute a release in proper legal form authorizing the Lodge to have access to the Employer's psychological files. The term "psychological files" does not include the results of any standard-

Psychological Evaluation

- ized psychological/psychiatric tests.
- B. No documentation in the possession of any member of the Panel shall be withheld if requested by another Panel member. Each member of the Panel shall provide to the other members of the Panel the results of any standardized psychological/psychiatric tests, conclusions based on said tests, and each Panel member's rationale for finding the Grievant fit or unfit.
 - C. The mutually-appointed member of the Panel may interview, examine, and evaluate the Grievant and may request additional data through the representatives of the Lodge and the Employer. Any member of the Panel is authorized to review any and all information or documents contained in Complaint Register files that are open, not-sustained, and/or sustained. However, no member of the Panel shall review any information or documents in Complaint Register files in which the finding was exonerated or unfounded. The restrictions on the retention of Complaint Register files set forth in Section 8.4 of this Agreement shall also apply to the Psychological Review process.

III. PROCEDURES

- A. All members of the Panel shall meet and discuss the Grievant's fitness and reach a conclusion regarding fitness.
- B. The mutually-appointed member of the Panel shall draft the Panel's decision regarding the Grievant's fitness. The decision must specifically address whether the officer was fit for some or all of the time the officer has been removed from duty and the officer's present

fitness. The decision must also address all of the issues submitted for review and state the evidence relied upon as the basis for the decision.

- C. The mutually-appointed member of the Panel shall send the draft of the Panel's decision to the Panel members appointed by the Lodge and the Employer for verification of their representations within fourteen (14) days from the date of the meeting of the Panel. The members of the Panel appointed by the Lodge and the Employer shall have fourteen (14) days from the postmark date of the draft report to verify said representations and to provide suggestions, recommendations, and comments to the mutually-appointed member of the Panel. The mutually-appointed member of the Panel may make any revisions to the decision based upon the comments received from the other members of the Panel. The final decision shall issue no later than fourteen (14) days from the postmark date of the latest response of the other members of the Panel, if any. In all cases, the decision of the Panel shall issue no later than sixty (60) days from the date of the meeting of the Panel. Failure to meet these time guidelines does not divest the Panel of authority to make fitness for duty decisions, nor expose the Employer to any liability.

- IV. Copies of the decision of the Panel shall be provided immediately to the representatives of the Lodge and the Employer.

Also see Administrative S.O. 05-01

Vehicle Licensing/Sticker Violations

From the F.O.P. Contract - Letters of Agreement Pages 168 and 169



FRATERNAL ORDER OF POLICE CHICAGO LODGE # 7

1412 WEST WASHINGTON BOULEVARD • CHICAGO, ILLINOIS 60607-1821
PHONE (312)930-9696 • FAX (312) 930-9967

January 9, 1997

Mr. James C. Franczek, Jr.
Franczek, Sullivan, Mann, Crement, Hein, Relias, PC
300 S. Wacker Dr., Suite 3400
Chicago, IL 60606-6785

RE: Vehicle License Plate / City Sticker Violations

Dear Jim:

This letter concerns our prior agreement, as set forth in your letter of August 1, 1996, regarding the procedure the Department would follow in the event that the Department has cause to believe that a member of this bargaining unit is operating a vehicle which may be in violation of the licensing requirements mandated by either the State of Illinois or the City of Chicago. After August 1, 1996 the parties met on numerous occasions to discuss the feasibility of implementing that agreement as well as whether or not the letter of August 1, 1996 was as extensive and comprehensive as the parties desired it to be to give effect to our respective goals. The conclusion reached by the parties was that the procedures set forth in your letter were not workable.

The parties have met to negotiate this issue. As a result of this further negotiation, the following procedure was agreed to and will be followed in all cases where the Department has cause to believe that a member of this bargaining unit is operating a motor vehicle which is not properly licensed under the laws of the State of Illinois or the Municipal Code of the City of Chicago. This letter and the following procedure replaces and supercedes your letter of August 1, 1996 and the procedure contained therein.

The Department will no longer handle violations of this type as a part of the Complaint Register process. We agree that when a member of this bargaining unit is alleged to have failed to purchase, renew, or display current Illinois license plates on the vehicle the member is operating the following procedure will be followed:

1. A supervisor will prepare only a Summary Punishment Action Request (SPAR) form against the member noting the violation. No Complaint Register Number (CR#) will be issued.
2. Where the violation noted is the failure to purchase, renew, and/or display current State of Illinois license plates, the SPAR form will be processed with a recommendation for disciplinary action not to exceed a one (1) day suspension.
3. The member will have ten (10) working days to show compliance with the State of Illinois licensing requirements. If the member does not comply within ten (10) working days, or in the event of prior licensing violations in the past one year period, the employer may issue a CR#.
4. We further agree that when a member of this bargaining unit is alleged to have failed to purchase or display a city vehicle sticker, the member shall have five (5) working days to demonstrate that he did purchase the city vehicle sticker within the time specified by the City. In the event the member cannot demonstrate within five (5) working days that he did properly purchase the city vehicle sticker within the time specified by the City, the SPAR form will be processed with a recommendation for disciplinary action not to exceed a one (1) day suspension.
5. The member will have ten (10) working days to show compliance with the City of Chicago vehicle sticker requirement. If the member does not comply within ten (10) working days, or in the event of prior city vehicle sticker violations in the past one year period, the employer may issue a CR#.
6. In the event the member can demonstrate that he did purchase the city vehicle sticker within the time specified by the City and offer a reasonable explanation

why the city vehicle sticker was not displayed, the SPAR will be disposed of with no discipline imposed and the SPAR will not appear on the member's disciplinary record.

It is further agreed that the retention period for a SPAR form upon which discipline is entered will be one (1) year from the date of the incident. All other provisions of this collective bargaining agreement and the Department's orders concerning internal appeals, grievability, and the satisfaction of discipline imposed through the use of the SPAR form remain in force and effect and are applicable to the vehicle violations referred to in this letter.

If this letter accurately represents your understanding and agreement regarding these procedures, please sign your name below.

Sincerely,

Thomas J. Pleines
General Counsel

Agreed:

James C. Franczek, Jr.
For the City

Secondary Employment

Definition

Secondary employment is any extra-Department activity for which any Department member is being compensated in salary, wages or commission or other things of value for services performed for an employer or in a self-employed status.

Restrictions:

The establishment for which you work must be properly registered and licensed.

You cannot use your official police authority, powers, records or services as a condition of secondary employment.

You cannot represent yourself as a Chicago Police Officer or wear your Chicago Police uniform. If an employer wants you to wear your Chicago Police uniform the employer must receive written consent from the Superintendent.

You cannot work more than twenty (20) hours a week. You cannot work in an establishment where the primary business is the sale of intoxicating liquor. Under no circumstances will you serve as a bartender or serve as a cocktail waiter or waitress.

You cannot work secondary employment while on the medical roll.

See the General Order for the complete list of restrictions.

Also see G.O. 89-9

From the F.O.P. Contract Article 16

Section 16.1 — Secondary Employment.

The Employer reserves the right to restrict secondary employment when it has reasonable cause to believe that the number of hours which the officer spends on secondary employment is adversely affecting his or her performance as a police officer. The Employer retains the existing right to limit, restrict or prohibit the nature or type of secondary employment that an officer undertakes.

Frequently Asked Questions

How many days can I be suspended?

The Superintendent's authority to suspend an officer, as set forth in Section 2-84-030 of the Municipal Code of Chicago, shall be increased from the current limit not to exceed thirty (30) days, to a limit not to exceed three hundred sixty-five (365) days.

Who pays my health insurance when I'm suspended?

Serving suspensions of more than thirty (30) days

G.O. 93-03-06 -- N. Suspension/Options

If a member of the Department is ordered suspended for more than thirty (30) days, the City of Chicago **will not** make the premium payment for the member's hospitalization insurance. In such instances the Personnel Division will notify the suspended member, by certified mail, of the action the member must take to insure the continuation of any insurance coverage during the period of suspension.

Do I have to turn in my star during my suspension?

G.O. 93-03-06 -- O. Suspensions

When a member is ordered suspended, he will turn in his star, his shield, and his identification card to his commanding officer.

What can I do about false or frivolous CR allegations?

G.O. 93-3-2A (D) (3) Conduct of the Investigation

Any member of the Department who feels that he/she has been the subject of a **false accusation or a contrived situation** may request an investigation by the Internal Affairs Division by submitting a written report (To-From) directly to the Superintendent of Police or the Assistant Deputy Superintendent, Internal Affairs Division. The member may submit this request without prior report to his/her superiors.

The F.O.P. strongly recommends that any officer going through a break up in a relationship where the other party threatens the officer with C.R. numbers to immediately write a "To-From" to the ADS, Internal Affairs, {SUBJECT: Anticipated C.R. Numbers}. This will alert the Department, I.A.D. and O.P.S. to the possibility of false allegations being filed.

Frequently Asked Questions

I have been served with an Order of Protection.

Who do I have to notify?

G.O. 93-03-05B (L) (1.) Orders of Protection against Department Members.

When a member is served with a Notice to Appear or is otherwise notified or made aware of an Order of Protection (**regardless of the source**) **where the member is the “respondent,”** the member **must immediately** prepare a “To-From” report indicating the date and time the member became aware of the existence or modification to the order of protection, and also indicating the date and time of any future court appearance as listed on any document received or of which the member is aware. **If known, the member must also list the C.R. number and date of incident of any pending C.R. investigation, if known by the member.**

This “To-From” must be submitted with copies of all documents, to the member’s Watch Commander/Watch Operation Lieutenant for review and forwarding.

I had some contact with the State Police at my summer place. Do I have to inform the C.P.D.?

G.O. 93-03-05B IV A. Department members under investigation by any outside Law Enforcement Agency.

A Department member who is under investigation by any outside Law Enforcement agency, or having knowledge that another member is under investigation by any Law Enforcement agency, whether or not that member has been contacted by that agency, **will immediately submit a “To-From” report of the information in triplicate to his/her Unit Commanding Officer.**

Can I go to court while on suspension?

G.O. 94-5-02 IV A 3

A member will not attend court while on suspension without prior approval.

There’s no Sworn Affidavit obtained. Do I have to answer the “To/From” request?

A copy of a sworn affidavit must be made available prior to requiring a member to submit a “To/From” response to its allegations. If it is not available, have the supervisor who is requesting the “To-From” call IAD/OPS and they will fax a copy of the affidavit to you.

Frequently Asked Questions

Do I have to submit a “To-From” or give a statement as a witness if no affidavit is shown to me?

Yes, the affidavit must be shown to the accused officer, not the witness officers.

If I give a statement as a witness officer in a C.R. investigation without being shown a signed affidavit can I then be made an accused?

Yes, but the Lodge would fight that statement because the contract and state law is clear. The accused officer cannot be interviewed until a sworn affidavit is obtained. In summary, if the investigator has one or more witness officers, and no accused officers, then the investigator should know that one or more could be the “accused,” and an affidavit should be obtained prior to the interviews.

Do I have to work a 10-99 unit?

From PAX 501 Volume 89 -- 28 November 1989

“There has been much confusion surrounding the Department’s policy with respect to the manning of patrol cars.

“There is a need for both one-officer and two-officer patrol car operations in developing the patrol pattern for the entire City. From an operational standpoint, advantages are gained by assigning one officer to a patrol car rather than two: the area of patrol coverage is reduced; the frequency of patrol is increased; and responses to calls for police service are accelerated. Generally, this strategy is only used on the second watch. During the hours of darkness, district patrol units will normally have two officers assigned unless operational requirements dictate otherwise. Operational requirements resulting from such circumstances as medical absences, furloughs, use of compensatory time, other absences, or the personal preference of an officer to work alone may necessitate the use of one-officer cars during the hours of darkness. In such instances, the Employer reserves the right to modify the staffing of district patrol units.

“This position was announced in January of 1986 and further clarified the position paper on District Beat Allocation issued in 1985, which is being widely disseminated now.

“In short, we must deploy one-officer cars, when necessary, to make up for the absences of other officers, for whatever reason. Also we will attempt to honor the requests, whether written or not, of those officers who prefer to work alone.

“It is my intent to continue these practices.”

LeRoy Martin
Superintendent of Police

Frequently Asked Questions

Can I work secondary employment while suspended?

G.O. 89-8

The Rules, Regulations, Directives and Orders of the Chicago Police Department bind a sworn member of the Department while on suspension, leave of absence or disability pension, except those rules, regulations, directives and orders which require the exercise of direct police action by a member or which by their very nature do not apply. A sworn member of the Department while on suspension, leave of absence or disability pension will NOT:

1. exercise the police powers of a Chicago Police Officer
2. carry a weapon
3. be required to appear at court hearings in cases in which he was the arresting officer when such hearings are scheduled during the period of time the member will be on suspension, leave of absence or disability pension, unless subpoenaed.

When does the Union provide an attorney for an off-duty CR#?

For any duty-related incident, which occurs while the officer is on or off duty, the FOP Legal Defense Committee (LDC) will provide legal coverage and representation, including referral to an attorney approved by the FOP and payments of attorney's fees and costs, for administrative or judicial proceedings, including criminal proceedings. Such coverage does not extend to any appeals taken by the officer.

Can they suspend me while I'm on furlough or RDO?

G.O. 93-3-6 Suspension/Options

When the Superintendent has signed a suspension order, the case file will be forwarded to the Finance Division. The Finance Division will prepare the suspension and Election/Rejection of Options to Suspension (CPD-61.416), in triplicate, and will forward the original and one copy to the unit of assignment of the member facing suspension. There are no orders prohibiting the department from suspending a member on furlough or RDO.

Do I have to submit to a Breathalyzer Test?

G.O. 93-03-05B (E) D.U.I.

When a Department member is arrested for D.U.I. the member can refuse a breathalyzer test for the state D.U.I. charge. The on duty ADS will respond and a C.R. number will be obtained and the member will given, his/her administrative rights. At this time when **the member is ordered by a supervisor to take the breathalyzer test the member cannot refuse.** The results of this test cannot be used against the member in the criminal proceedings but a refusal of a direct order can result in the member's termination.

Frequently Asked Questions

How can I as the police get a complaint register number on another PO?

A member must contact their Supervisor in Command, informing of the alleged misconduct by another member of the department. Please remember, the Fraternal Order of Police does not assist complainants in the Complaint Register process.

Can I continue to work as the police if I take a conviction in criminal court?

All members should be aware that effective 01 January 2000, Illinois Law provides for the immediate desertification of any law enforcement officer **convicted** of a felony or certain misdemeanors. The law mandates self-reporting – any officer who continues to practice as a law enforcement officer after conviction commits a Class 4 felony. In the event a sworn member is decertified, the Department will treat the matter as a separation case.

Effective 1 January 2000, Illinois law provides for the immediate decertification of any law enforcement officer who is convicted of any of the following misdemeanors:

- 720 ILCS 5/11-6 Indecent Solicitation of a Child
- 720 ILCS 5/11 – 9.1 Sexual Exploitation of a Child
- 720 ILCS 5/11 – 14 Prostitution
- 720 ILCS 5/11 – 17 Keeping a Place of Prostitution
- 720 ILCS 5/12 – 2 Aggravated Battery
- 720 ILCS 5/12 – 15 Criminal Sexual Assault
- 720 ILCS 5/16 – 1 Theft
- 720 ILCS 5/17 – 1 Deceptive Practices
- 720 ILCS 5/17 – 2 Impersonating a Police Veteran/Fraternal Org.
- 720 ILCS 5/28 – 3 Keeping a Gambling Place
- 720 ILCS 5/29 – 1 Offering a Bribe
- 720 ILCS 5/31 –1 Resisting or Obstruction a Police Officer
- 720 ILCS 5/31 – 6 Escape
- 720 ILCS 5/31 – 7 Aiding Escape
- 720 ILCS 5/32 – 4(a) Harassment of Jurors or Families of Jurors
- 720 ILCS 5/32 – 7 Simulating Legal Process
- 720 ILCS 550/5 Manufacture or Delivery of Cannabis
- 720 ILCS 550/5.2 Delivery of Cannabis on School Grounds

Index

A

Access to Disciplinary Files..... 30

B

Behavioral Intervention Program..... 36

Breathalyzer 44

C

Civil Lawsuits25-26

 Civil Suit To/From 47

Court While on Suspension..... 42

D

Discipline Screening Program..... 24

Disclaimer Samples 48

E

Exonerated 8

F

False Accusations..... 41

Frequently Asked Questions 41

G

Garrity Rights..... 32

Grievances..... 28

Guide To The Disciplinary Process 5

H

Health Insurance 41

I

Indemnification 25

Interacting with I.A.D. and O.P.S. 13

L

Legal Defense 1

Legal Defense Committee Guidelines..... 3

M

Making The Legal Defense Plan Work..... 1

Mediation Process 17

N

Non-Disciplinary Intervention -- Verbal

 Abuse 21

Not Sustained 8

O

Off-Duty CR #s 44

One Officer Cars 43

Order of Protection..... 42

Outside Law Enforcement Agencies 42

P

Police Board..... 11, 29

Police Shootings and Other Serious On/Off

 Duty Incidents 18

Psychological Evaluation 38

R

Request to Secure Counsel..... 14

Rights of Public Safety Officers.....32-35

Rights of Union Representatives.....34-35

S

Sample of the Sworn Affidavit..... 7

Secondary Employment 40

Summary Punishment 23

SPAR, Summary Punishment

Action Request..... 23

Suspension on Furlough or RDO 44

Sustained 8

Sworn Affidavit..... 5, 7, 42

Sample of Affidavit 7

T

Tactical Response Report..... 20

U

Unfounded..... 8

Use of Force 20

V

Vehicle Pursuits 19

Vehicle Licensing / Sticker Violations..... 39

W

Waiver of Counsel..... 1, 14

Weingarten 19, 32-34

Civil Suits

General Facts

Corporation Counsel acts as attorney in your defense.

Corporation Counsel is the City's Attorney

If an officer is being sued civilly, the complainant is not going to take money from his/her personal account. They are being sued as an agent of the City. (In the same way that a parent would be sued rather than their child.)

If the civil suit has not already generated a CR# from IAD or OPS, a CR# will automatically be issued. When answering the CR# (usually in the form of a "To/From") the officer should write the disclaimer for his/her first paragraph. The second paragraph should state exactly what he/she stated in the narrative portion of his/her arrest/case report. The third paragraph, the officer should specifically deny the allegations they have been given.

Notifying the Proper Authorities

When an officer has been named in a civil suit, the following "To/From" report will be submitted.

To/From to Unit/District Commander

Attention: Superintendent of Police
Legal Affairs

1st Paragraph will contain the date, time and location of how, when or where he/she has received the civil suit.

2nd Paragraph should read as follows:

R/O is requesting representation and indemnification from the City pursuant to the FOP contact.

3rd Paragraph will state whether R/O has or has not received notice of a CR#.

Forward your "To/From" subject report along with a copy of the front page of the Civil Suit to Unit 111. Send a copy of your "To/From" report along with a copy of the front page of Civil Suit to your Unit/District Commander.

Disclaimers

Shooting Order Request *(To First Supervisor On Scene)*

I have been advised that all shooting incidents are being reviewed for criminal prosecution by units of the State and Federal Governments. Therefore, I am exercising my constitutional right to remain silent and I will make no written or oral statements unless I am given a direct order to do so. I will cooperate in your investigation if ordered to do so because I know that if I do not cooperate, I will be fired from my job. (Document supervisor's name, rank and star number.)

To / From For Tactical Response Reports

This statement is not being given voluntarily, but under duress. I am only completing this report at this time because I know that G.O. 02-08 requires me to make this report. I know that I will lose my job if I refuse. (If a direct order is given to submit the reports or statements, include the name, rank and star number of the person giving you the order.) This "TO/FROM" report should not be considered a verbatim statement but only a summary of requested information.

Disclaimer For To / From Reports

This statement is not being given voluntarily, but under duress. I am only giving this statement at this time because I know that I could lose my job if I refuse the direct order being given to me. (If a direct order is given to submit the reports or statements, include the name, rank and star number of the person giving you the order.) This "TO/FROM" report should not be considered a verbatim statement but only a summary of requested information.

312-733-7776

Answering Service

Will Forward Emergency Calls To The On-Call Lodge Officer 24/7/365

Contact Lodge Officers during regular business hours at:

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