

Detroit Police Officers Association City of Detroit 1992-98

(Selected Areas of the Contract/Agreement)

MANAGEMENT RIGHTS AND RESPONSIBILITIES

- A. The Union recognizes the prerogatives of the Department to operate and manage its affairs in all respects in accordance with its responsibilities and powers of authority.
- A. The Department has the right to schedule overtime work as required in a manner most advantageous to the Department and consistent with requirements of municipal employment and the public safety.
- A. It is understood by the parties that every incidental duty connected with operations enumerated in job descriptions is not always specifically described.
- A. The Department reserves the right to discipline and discharge for just cause. The Department reserves the right to lay off personnel for lack of work or funds; or of the occurrence of conditions beyond the control of the Department; or when such continuation of work would be wasteful and unproductive. The Department shall have the right to determine reasonable schedules or work and to establish the methods and processes by which such work is performed.
- A. No policies or procedures covered in this Agreement shall be construed as delegating to others or as reducing or abridging any of the following conferred on City officials:
 - 1. The charter responsibility of the Mayor as Chief Executive Officer of the City for enforcing laws of the State and City, passing upon ordinances adopted by the City Council, recommending an annual budget, or directing the proper performance of all Executive Departments;
 - 1. The responsibility of the City Council for the enactment of ordinances, the appropriation of money and final determination of employee compensation;
 - 1. The responsibility of the Department and the Board of Police Commissioners for determining classification, status and tenure of employees, establishing rules, initiating promotions and disciplinary actions, certifying payrolls and the reviewing of appointments in the police service;
 - 1. The responsibility of the Department heads and the Board of Police Commissioners governed by charter provisions, ordinances, and departmental rules and as limited by the provisions of this agreement:
 - b. To recruit, assign, transfer or promote employees to positions within the Department;
 - a. To suspend, demote, discharge or take other disciplinary action against employees for just cause;
 - a. To relieve employees from duties because of lack of work, lack of funds or for disciplinary reasons;
 - a. To determine methods, means and employees necessary for departmental operations;

- a. To control the departmental budget; and
 - a. To take whatever actions are necessary in emergencies in order to assure the proper functioning of the Departments.
- A. It is agreed by the Department and the Union that the City of Detroit is obligated, legally and morally, to provide equality of opportunity, consideration and treatment of all members of the Department and to establish policies and regulations that will insure such equality of opportunity, consideration and treatment of all members employed by the Department in all phases of the employment process. To this end, basic rights and equities of members are established through the City Charter, Executive Orders of the Mayor, Ordinances and Resolutions of the City Council, and the rules of the Department.
- A. It is further intended that this Agreement and its supplements shall be an implementation of the charter and ordinance authority of the Mayor, the City Council, the Board of Police Commissioners and the department heads. Rules and regulations promulgated by the Department, and the provisions of Public Act 336 of 1974, as amended.
- A. The City will not aid, promote or finance any labor group or organization purporting to engage in collective bargaining or make any agreement with any such group or organization which would violate any rights of the Union under this contract.
- A. No department official or agent of the City shall:
1. Interfere with, restraint or coerce employees in the exercise of their right to join or refrain from joining a labor organization, except where permitted by law to avoid a conflict of interest;
 1. Initiate, create, dominate, contribute to or interfere with the formation or administration of any employee organization meeting the requirement of law;
 1. Discriminate in regard to employment or conditions of employment in order to encourage or discourage membership in a labor organization;
 1. Discriminate against an employee because he has given testimony or taken part in any grievance procedures or other hearings, negotiations or conferences as part of the labor organization recognized under the terms of this agreement; or
 2. Refuse to meet, negotiate or confer on proper matters with representatives of the Union as set forth in this agreement.

DISCIPLINE

All alleged charges and specifications against employees will indicate the specific violation of Departmental rules and regulations including the date, time and locations of such alleged violations and a statement in simple concise language of the facts constituting the allegations.

Personnel Orders concerning discipline imposed upon an employee will include a statement that the discipline has been appealed, if applicable.

In no event will any penalty be increased from that rendered at the original hearing.

The following shall be the discipline procedure for all employees covered by this Agreement:

- A. Written Reprimand Appeal Procedure
 1. Appeal to the Commander: In the event that a police officer feels he has been

unjustly reprimanded, he may appeal such action to his Commander for review. Such appeal must be made in writing within ten (10) calendar days of the service of the reprimand on the police officer. The Commander shall schedule a hearing within ten (10) calendar days of the receipt of the appeal and shall give a written decision within ten (10) calendar days of the meeting.

1. Appeal to the Chief of Police: Any police officer may appeal the decision of his Commander to the Chief of Police for review. Such appeal must be made in writing within ten (10) calendar days of the service of the reprimand on the police officer. The Commander shall schedule a hearing within ten (10) calendar days of the receipt of the appeal and shall give a written decision within ten (10) calendar days of a timely appeal.

a. Sustain the reprimand; or

a. Dismiss the reprimand.

1. The Chief of Police or his designated representative shall give a written decision within ten (10) calendar days of the meeting and that decision shall be final.

A. Commander's Action Procedure

Upon a full investigation of allegations against a member, the Commander or designated inspector of a bureau, precinct, section or unit or other entity of the Department where empowered by the Chief of Police, may conduct a hearing and render a disciplinary penalty not to exceed three (3) days per charge with a maximum of two (2) charges. A member scheduled for a Commander's Action may elect to proceed to a Trial Board in lieu of a Commander's Action. Any member not satisfied with the decision rendered at a Commander's action may appeal such disposition to the Trial Board provided, however, that in the event that the sentence imposed at the Commander's Action is two (2) days or less, it shall be final and binding with no right of appeal. Such appeal must be initiated in writing at the unit level within ten (10) calendar days of the Commander's decision. If the Commander's decision is appealed to the Trial Board, the procedure for such matters shall apply.

Commander's Hearings are not adversary in nature and no plea will be taken; however, the employee will be given the opportunity to make statements or speak on matters of mitigation during the hearing. No tape recordings or stenographic notes will be made at any Commander's Hearing.

A. Chief's Hearing Procedure

Upon an investigation of allegations against a member, the Chief of Police or his duly designated representative may conduct a hearing and render a disciplinary penalty.

The Chief's Hearing will be electronically recorded. Upon request, copies of such records will be given to the Union. The Union will furnish to the City the cassettes to be used.

The Department shall give a member at least seven (7) calendar days notice with a copy to the Union of any Chief's Hearing scheduled to be heard. Such notice shall indicate the time and place of the hearing together with the hearing officer's name. Notice of prospective hearings may be modified by mutual agreement.

These hearings are not adversary in nature and no plea will be taken; however, the employee may make statements or speak on matters of mitigation, during the hearing.

Upon announcement of the Chief's decision and sentencing, the cited member, should he not

be satisfied with the decision rendered at a Chief's Hearing, may appeal the matter to the Trial Board. Such appeal must be initiated in writing at the unit level within ten (10) calendar days of the Chief's decision. If the Chief's decision is appealed to the Trail Board, the procedure for such matters shall apply.

A. Trial Boards

Upon a full investigation of allegations against a member, the Chief of Police may convene a Trial Board which shall conduct a hearing and render a disciplinary finding and penalty in any matter involving misconduct by a member of the Department.

The following procedures will apply to any Trial Boards as well as appeals to Trail Boards.

The Department shall give the member, the Union and the law firm designated by the Union at least fifteen (15) calendar days notice of any Trial Board proceeding scheduled to be heard. Such notice shall indicate the time and place with a list of all witnesses to be called; said notice shall also contain the charges and specifications against the employee. Reasonable adjournment shall be granted as a matter of right at the request of counsel for the defendant officer.

The present practice pertaining to discovery by the Union's attorneys prior to a Trial Board hearing will continue.

Trial Boards will be de novo and the Trial Board will consider and decide the questions of guilt or innocence and the mitigation of the penalty. Penalties appealed to a Trial Board cannot be increased.

The Department shall record all Trial Board proceedings electronically. Upon request, such records shall be made available to the Union under the direct supervision of Department personnel. In addition, either party at its discretion and at its own expense, may provide a certified court reporter to record the Trial Board proceedings. However, the Department's electronic recordings shall be considered the official Department record of the proceedings.

Any employee who appears before a Trial Board has a right to call witnesses in his own defense.

When a Trial Board issues a penalty which may require action in the future, that Trial Board will retain jurisdiction in the matter to assure that the employee complies with the terms of its decision. In the event it is impossible to reconvene the original Trial Board, the replacement of any Trial Board member will be done in accordance with applicable provision of this Article. If the employee fails to comply with the terms of its decision, such Trial Board cannot issue a penalty greater than that originally issued. If an employee's non-new violation of the Department's rules and regulations, the original Trial Board may consider and make findings upon such misconduct only for the purpose of determining whether it warrants reinstatement of the penalty originally issued. In addition, the same misconduct will also be separately considered and processed by the Department as a new violation in accordance with the disciplinary procedure applicable to new violations which will result in an independent disciplinary finding and new penalty that will not be limited by the nature of the penalty issued by the original Trial Board. If in the course of being considered and processed as a new violation, the misconduct is reviewed by a Trial Board, its members shall be different from those who composed the original Trial Board.

After a Trial Board hearing, the Trial Board shall render a written decision, which includes findings of fact, signed by concurring members.

Trial Board members shall be selected as follows:

- 1) All Trial Board convened to consider charges against any member of the Union shall be made up of one command officer of the rank of Commander or higher, and two command officers of the rank of Inspector, who be chosen by lot.
- 2) The Disciplinary Unit or its successor with the Department shall maintain a current list of all command officers of the rank of Inspector and above who are employed in the duty status with in the Department, with a number assigned to each such command officer.
- 3) When it shall be necessary to convene a Trial Board, the Disciplinary Unit, in the presence of a representative selected by the Union shall cause numbers assigned to all such command officers to be placed in an opaque receptacle and the numbers corresponding to the names of one officer of the rank of Commander or higher and two offices of the rank of Inspector drawn there from at random until the composition of the Trial Board is complete.
- 4) No command offers shall be selected for more than two (2) Trial Boards for members of this bargaining unit in a calendar month, and no command officer shall be selected for a Trial Board which is convened to consider charges conferred or approved by the command officer.
- 5) This provision shall not be construed as a waiver of the right of the union to challenge before the Trial Board so convened, or in curt, the seating on a Trial Board of any command officer who may have bias or prejudice or the appearance thereof in the matter involved or against the member charged in the Trial Board.

E. Appeal from a Trial Board

- 1) Any employee not satisfied with the decision rendered at a Trial Board, whether the Trial Board disposition was the result of an appeal described in Section B or C above or whether the Trial Board disposition was the result of an original hearing, may appeal the Trial Board decision to the Board of Police Commissioners. The Board of Police Commissioners shall review the judgment of the Trial Board based upon the record made before the Trial Board. No new testimony or evidence shall be received. If the Board of Police Commissioners decide that new evidence or testimony shall be heard, they shall refer the case back to the Trial Board. If the Board of Police Commissioners decide that the judgment of the Trial Board was incorrect, they may modify the judgment accordingly. The Board of Police Commissioners shall notify the employee of their decision in writing.
- 2) Any employee not satisfied with the decision rendered at a Trial Board, whether the Trial Board disposition was the result of an appeal described in Section B or C above or whether the Trail Board disposition was the result of an original hearing, may request the Union to appeal the Trial Board decision to arbitration. If the Union elects to appeal the Trial Board decision to arbitrating, based upon the request of the employee, the employee may not process his appeal with regard to the same matter to the Board of Police Commissioners.
- 3) An appeal of a Trial Board decision to arbitration under this section shall be subject to the arbitration procedure of Article 8, insofar as the specifically applicable to discipline arbitration, subject to the following provisions:
 - A) Any disciplinary matter brought to arbitration shall be limited to the issue of the severity of the penalty except discharges and suspension of six (6) months or more in which cases the employee shall be entitled to a de novo hearing on all issues.
 - B) In the arbitrations of disciplinary matters which are limited to the issue of the severity of the penalty, evidence to be admitted by the umpire will be evidence having probative value with regard to severity of penalty whether or not such evidence had been procured at the Trial Board.

- C) The umpire shall have the authority to affirm the Trial Board penalty, to reverse the Trial Board penalty, to set aside or modify it in any way. In no event shall the umpire increase the penalty rendered by the Trial Board.
- D) There shall be no appeal from the decision of the umpire if made in accordance with his jurisdiction and authority under this Agreement. It shall be final and binding on the Union, on all bargaining unit employees and on the City. The Union will discourage attempts by any bargaining unit employee to appeal a decision of the umpire to any court or labor board. The umpire shall submit his decision in writing thirty (30) calendar days after the conclusion of the hearing.
- E) Arbitration hearings which result as an appeal from a Trial Board shall be held in the Trial Board room unless mutually agreed otherwise.
- F) In arbitration hearings which are de novo either party may introduce into evidence the Trial Board record of witnesses who appear in the original Trial Board hearing but are not available to testify in the arbitration hearing. The party wishing to use the Trial Board record must prove its good faith efforts to procure the attendance of the witness at the arbitration hearing.

There is more, but we will stop at this point.
Please continue to the next section.

II General Conditions

- A. The Department will furnish for the use of the Union, space for a bulletin board at each of the precincts, sections or units where Union members are assigned. Bulletin boards shall be used only for the following notices:
 - 1. Recreational and social affairs of the union.
 - 2. Union meetings.
 - 3. Union elections.
 - 4. Information of happenings of other departments or unions.
 - 5. Reports of the Union.Notices and announcements shall not contain anything of a political nature except notices with respect to internal elections. Notices and announcements shall not contain anything of a libelous nature.
- B. Employees shall not be assigned duties normally performed by a person of a higher rank, except in emergency situations.
- C. An employee shall not use his privately owned vehicle for any police purpose.
- D. Employees are urged to keep their commanding officers informed of where they can be reached whenever they are out of town off duty for period of 48 hours or less. For absences of longer periods, employees must so inform their commanding officers.
- E. Safety glasses and ear protection shall be provided at all police firing ranges.
- F. Lockers of individual officers shall not be opened for inspection except with permission of and in the presence of the officer or his designated representative or steward.

- G. No member shall be prohibited from engaging in any political activity, either partisan or non-partisan, except while working.
- H. Compensator Time Bank: Compensatory time shall be separated into two (2) categories which shall be reported on the employee's bi-weekly paycheck statement. The first category shall reflect excused time as described in Article 31, H. The second category shall include compensatory time earned on or after April 15, 1986, which shall be subject to the provisions of the Fair Labor Standards Act (F.L.S.A.). Compensatory time in the second category shall be limited to a total of four hundred eighty (480) hours or whatever limitation may hereafter be imposed by law. Compensatory time used shall first be charged to the pre-April 15, 1986 bank and thereafter charged to the post-April 15, 1986 bank.
- I. Work Period: The work period for the purposes of computing overtime is 28 consecutive days and include 8 leave days.

Grievance Procedure

- A. Every employee of the Department shall have the right to present grievances in accordance with the procedure provided herein.
- A. The informal resolution of differences or grievances is encouraged at the lowest possible level of supervision.
- A. Sergeants, lieutenants, inspectors, commanding officers and reviewing officers shall consider promptly all grievances presented to them and, within the scope of their authority, take such timely action as is required.
- A. Grievances shall be processed according to the following procedure:

Step - ORAL Sergeant, Lieutenant or Inspector

An employee who believes he has been dealt with unjustly or believes that any provision of this Agreement has not been applied or interpreted properly may discuss his complaint with his sergeant, lieutenant or inspector, with or without the presence of his steward. If the sergeant, lieutenant or inspector does not have the authority to resolve the complaint, the employee and the steward shall discuss the complaint with the commanding officer of his section or unit. The parties shall discuss the complaint in a friendly manner and shall make every effort to reach a satisfactory settlement at this point. The employees shall have the right to discuss the complaint with his steward before any discussion takes place with the supervisor. The supervisor shall make arrangements for the employee to be off his job for a reasonable period of time in order to discuss the complaint with the steward.

Step 2 - Written - Sergeant, Lieutenant or Inspector

If the matter is not satisfactorily settled a grievance may be submitted in written form by the steward to the sergeant, lieutenant or inspector with whom the complaint was discussed in Step 1. The written grievance shall set forth the nature of the grievance, the date of the matter complained of, the name(s) of the employee or employees involved, so far as diligent effort will allow, and the provisions of this Agreement, if any, that the grievant (s) claim have been violated. The supervisor's answer shall set forth the facts

he took into account in answering the grievance. His written answer shall be presented to the steward within seven (7) calendar days after receipt of said written grievance. Acceptance or rejection of the supervisor's answer will be written on the grievance form by the steward.

Step 3 - Written-Commander/Commanding Officer of Precinct/Division

If the grievance is not satisfactorily adjusted, it may be referred to the chief steward, who may appeal such grievance to the precinct/division commander within seven(7) calendar days from receipt of the Step 2 answer by the steward. The commander shall meet to discuss the grievance with the steward, chief-steward, or both, the aggrieved employee(s) and render a written answer within seven(7) calendar days of his receipt of the grievance.

All grievances involving medical issues shall be filed with the Grievance Committee of the Union. The employee's commanding officer shall be presented an informational copy of the grievance. After conducting an investigation, the Grievance Committee may submit the grievance to the commanding officer of the Medical Section beginning with Step 3 of the grievance procedure.

The commanding officer of the Medical Section shall make a complete investigation of the grievance, and shall answer the grievance within thirty (30) calendar days, attaching copies of all medical records pertaining to the injury or illness involved in the grievance.

Step 4 - Written Chief of Police

If not satisfactorily settled, the grievance may be referred to the Chief. A meeting between the Chief or his designated Deputy Chief and a committee of the Union composed of the President or his designated representative, or both, and members of the Grievance Committee shall be held within seven (7) calendar days after referral to the Chief to discuss the grievance. The Chief, or his designated Deputy Chief, shall give his written answer within fourteen (14) Calendar days of the meeting.

- A. Notwithstanding any other provisions herein, individual employees may present their own grievances to the Employer and have them adjusted without the intervention of the steward or Union officers; provided, however, that the Employer has given the steward or Union officers notice and an opportunity to be present at such adjustment. In no event shall any such adjustment be contrary to or inconsistent with the terms of any agreement between the Employer and the Union.
- A. Grievances affecting a large number of employees or concerning a transfer between commands may be treated as policy grievances and entered at the third step of the grievance procedure by the Union. One or more members of the Grievance Committee may attend hearings on policy grievances entered at Step 3 with the permission of the Labor Relations Section. Such permission shall not be unreasonably refused.
- A. Grievances shall be filed within 30 (30) calendar days of the even, occurrence or knowledge of the facts giving rise to the grievance. Grievances not appealed in writing to the next step within seven (7) calendar days of receipt of the last decisions shall be considered settled on the basis of the last decision, provided that in cases concerning medical grievances, the Union shall have an additional sixty (60) calendar days from the receipt of the answer of the commanding officer of the Medical Section, as set forth in Step 3 of the grievance procedure. Grievances not answered on time may be moved to the next step or arbitration, whichever is applicable. All time limits of the grievance procedure may be shortened or extended by mutual agreement.

- A. In instances wherein the subject matter of the grievance lies within the jurisdiction of specific City agencies, e.g. payroll, etc. the grievance steps may be reduced in order to bring the grievance to the agency's immediate attention for a recommendation as to the action to be taken at Step 3.

Members Rights

- A. Employees accused of violating Criminal Codes or Ordinances shall be entitled to their full rights under the Federal and State Constitutions.
- A. No member shall be disciplined, discriminated against, or transferred because he exercise any of his constitutional right before any grand jury, investigative body, court or law enforcement agency federal, state and local as well as any investigative committee of any legislative body - federal, state and local.
- A. Whenever an employee is ordered to answer questions as part of a departmental investigation or any other departmental proceeding, such investigation or interview shall be conducted in accordance with the following procedures. This shall not apply to questions as opposed to order, arising out of routine daily activities at a precinct, section or unit.
 - 1. The interview shall be started between 6:30 a.m. and 5:30 p.m., Monday through Friday, preferably at a time when the employee is on duty, unless the seriousness of the investigation is of such a degree tat an immediate interview is required. The initial interview conducted by the Internal Affairs Section shall not be subject to this time limitations.
 - 2. An employee will be given seventy-two (72) hours written notice prior to an interview in a non-criminal investigation, except in cases of emergency. In non-criminal investigations the employee shall be supplied with a copy of any complaints that have been filed against him and all relevant information at the time he is ordered to appear at the interview.

In those instances where a command level investigation of an informal citizen's complaint, as opposed to those on DPD 512, progresses to the point where a written statement is ordered the officer will be provided with an inter-office memorandum stating the complaint made against him, by whom and the specific questions that the investigating supervisor wants answered. This shall include investigations delegated to the command to handle form other departmental agencies, such as the Internal Controls Bureau.

- 3. Employees required to be interviewed by the Internal Controls Bureau will be given seventy-two (72) hours written notice prior to the interview. Provided, however, that the obligation to give seventy-two (72) hours written notice shall not apply (1) to individuals who have been arrested, (2) to individuals who are questioned under Miranda and (3) where the seriousness of the investigation is of such degree that an immediate interview is required.

None of the foregoing exceptions to the seventy-two (72) hours written notice requirement shall apply to the Residency Section. All interviews conducted by the Residency Section shall be proceeded by seventy-two (72) hours written notice.

- 4. No interview shall begin until the employee has been notified that he has a right to have legal counsel and a representative of the Union present, except that an officer who is called before the Internal Affairs Section who at the time he is

notified to appear is advised in writing that the purpose of the questioning is not to charge him with any criminal conduct or to discipline him and that he is only being called as a witness, shall be entitled to the presence of a Union representative during the interview. In investigations in which the suspect officers are unknown, the Department may require the Union representative to be a Union officer.

5. The employee under questioning shall be informed prior to such interview of the name of the person in charge of the interview, the interviewers and all persons present during the interview. If any of the interviewers are sworn police officers, at least one shall be present during the interview who is of a rank of Sergeant or above.
 6. The interviews shall be conducted for reasonable periods of time and in a reasonable manner.
 7. The attorney representing the officer shall be allowed to ask questions at the time of the interview.
 8. When the employee is ordered to make a statement in response to questioning he shall comply subject to the receipt of Garrity warnings.
 9. Where the employee is ordered to make a written statement (other than a PCR or witness statement) in response to any alleged misconduct he shall have at least seventy-two (72) hours from the time of the order in which to comply. Reasonable extension may be necessary for consultation with Union representative and shall be considered upon request of the member.
 10. If a record is made at the time of the interview and improper conduct is alleged, the employee.
- D. The investigative staff of the Board of Police Commissioners shall have the right to interrogate and investigate members under the procedures in this Agreement to which any interrogation officer is subject and such right shall in no way abridge or change the rights of a member under this Agreement or under any local, state or federal law or the Constitution of the United States or the State of Michigan.
- In no event shall any recommendations or actions resulting from such interrogation or investigation lead to any discipline outside or inconsistent with any discipline procedures or discipline matters maintained in this Agreement and currently utilized in this Department.
- Further, no member after he has been once disciplined at the Commanders' Hearing, Chief's Hearing or a Trial Board shall be re-disciplined for any reason whatever for any matters arising out of the same set of facts and circumstances surrounding the first discipline.
- D. An employee will be notified in writing of the result of any department investigation of him within ninety (90) days after the investigation is completed. If the employee is charged either criminally or departmentally that will be notification.

