

CHAPTER 13: LEAVES AND INJURED ON-DUTY

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1.0 SICK LEAVE - GENERALLY

1.1 POLICY

It is the policy of the Buffalo Police Department to grant to its employees sick leave in accord with the terms of existing collective bargaining agreements and consistent with current state and federal mandates.

1.2 SICK LEAVE ENTITLEMENTS

Employees of the Department are entitled to sick leaves benefits as specified in their respective collective bargaining agreements.

1.3 ELIGIBILITY FOR SICK LEAVE

Employees of the Department shall be eligible for sick leave only when suffering from an illness or off duty injury that would prevent the performance of their duties. Sickness or disability shall not be feigned, nor shall any employee attempt to deceive any Department affiliated health care provider or Superior Officer concerning his/her physical condition. Employees who misuse or abuse sick leave privileges, may be subject to disciplinary action.

1.4 LIGHT DUTY - SWORN MEMBERS

Sworn members who are disabled due to sickness or injury will be permitted to return to work in a light duty assignment in lieu of using sick leave, subject to a determination by the treating Physician that the sworn member can perform light duty. Light-duty (and limited light-duty for IOD related members only) Officers are NOT to be given permission to leave their place of assignment during their tour of duty with the exception of the light-duty, full shift Officers who may leave for lunch. If the full-shift, light-duty Officers choose to leave their place of assignment for lunch they must sign out/in. ***Also, under no circumstances should any light-duty or limited/light-duty Officer be allowed to use a City of Buffalo or Police Department vehicle.***

1.5 NOTIFICATION REQUIREMENT

All employees who are absent due to illness or injury are to report such absence to their appropriate Superior Officer on or before the first day of such absence and the Department may require reasonable proofs of illness (or injury). In the event of a failure to comply with the notice requirements, the employee's absence may be considered as unauthorized leave. Abuse of sick leave provisions may be cause for disciplinary action.

A. Sworn members who anticipate being absent from work due to injury or illness must make every reasonable effort to give notice to their commanding officer as far in advance as possible prior to the start of their shift time.

B. For employees represented by Local 650 and Local 264, a physician's certificate may be required after an absence of three (3) consecutive workdays.

C. For employees represented by Local 264, if a member is on paid sick leave for two (2) consecutive work days twice in any three (3) consecutive month period, the

Department may require a physician's certificate for the employee for the next two (2) consecutive work day absence on paid sick leave occurring within that same three (3) consecutive month period.

1.6 NOTIFICATION WHEN AN INJURY IS SUFFERED WHILE ON SICK LEAVE

Whenever any employee is injured in any manner while on sick leave, (s)he, or a member of his/her family or other responsible person, shall immediately report or cause to be reported through the chain of command to the employee's Superior, the circumstances and the nature of the injury. Consistent with existing directives, the Superior shall have form P-169C (Commanding Officer Sick/Injury Investigation) prepared and an electronic mail message transmitted. If the injury is related to a prior service connected injury, such fact shall be made known and the necessary reports prepared (a P-73 and medical documentation from treating Physician substantiating the exacerbation). If such injury or illness was incurred while the employee was on second front employment, the Commissioner or his/her designee shall be notified.

1.7 REPORTING SICK WHILE ON ANNUAL VACATION

Employees reporting sick while on annual vacation shall complete their scheduled vacation leave before being placed on sick leave.

1.8 REPORTING SICK WHILE ON DUTY

Whenever employees become sick while on duty to the extent that they are rendered incapable of properly performing their duties, they shall notify their Superior Officer who shall have form P-169C prepared. Sworn members shall then proceed directly to their place of confinement. Employees of the Department represented by Local 650 may use sick time in two-hour increments. Employees of the Department represented by Local 264 can use sick time in increments of either four or eight hours. PBA members may only use sick time in increments of full shifts (i.e. eight hours or ten hours depending on whether they are working the eight hour or ten hour schedule, **exception to this – see IOD Procedures**).

1.9 PLACE OF CONFINEMENT - SWORN MEMBERS

Place of confinement will normally be the sworn member's legal residence. In circumstances where a sworn member is sick or is injured and resides or is confined at a location other than his/her legal residence, except if confined to a hospital, medical facility, or other treatment center, the sworn member shall notify his/her command of the location of confinement and shall submit immediately thereafter, an intra-departmental memorandum to the Police Commissioner indicating the purpose and need for the confinement at that location. Any subsequent change of location, including a change to his/her legal residence shall be subject to the same notification requirement. The sworn member's command will be responsible for transmitting the appropriate electronic mail message to the sick/IOD bulletin board indicating any change in the sworn member's place of confinement.

1.10 DUTY TO REMAIN IN PLACE OF CONFINEMENT - SWORN MEMBERS

A. Except as provided in this section, sworn members, while they are on sick *or IOD* leave or they are absent due to a service connected injury/illness shall not absent themselves from their place of confinement during those tours of duty for which they were originally scheduled to work.

B. They may absent themselves from their place of confinement:

1. With permission of their Division Chief, a Deputy Police Commissioner or Internal Affairs Division by calling 851-5750 and such permission has been documented. When extenuating circumstances exist permission may be obtained from the Duty Officer and the Duty Officer shall document such permission on the Duty Officer's Activity Report;
2. To obtain professional medical treatment;
3. To perform exercise prescribed in writing by their physician, this is part of their recovery treatment provided that a copy is submitted to IAD prior to commencing such exercise.
 - a. This does not authorize sworn members to absent themselves from their place of confinement at all times but only during those times when they are performing the exercise prescribed in writing by their physician.
4. While on approved unchallenged injured on duty status, the Commissioner may grant a waiver of confinement. The Commissioner's determination shall be made on a case-by-case basis;
 - a. Sworn members may apply for this waiver by submitting their request on an Intra-Departmental Memorandum and forwarding it through channels to the Commissioner or his/her designee.

1.11 ELECTRONIC MAIL MESSAGE TO BE TRANSMITTED

Whenever an employee reports off duty on sick leave or returns to duty from sick leave, an electronic mail message shall be transmitted directly to the Sick/IOD mailing list. The message shall be sent as soon as possible after notification of the member's absence from, or return to, duty. The message shall include:

1. Name
2. Rank
3. Command
4. Manpower
5. Sick Plan
6. Date/Time Report Off

7. Place of confinement - Only if place of confinement is not the primary address (must report the address)

1.12 RETURNING TO DUTY FROM SICK LEAVE

A. Two Hour Notification Requirement

Personnel wishing to return to duty from sick leave must notify their command at least two (2) hours before the start of the tour for which they are returning.

B. Reporting Back to Duty at the Command of Assignment

Personnel who wish to return to full duty from sick leave shall report back to their command with proper documentation, which they shall give to the Command Officer. The Command Officer will sign it and forward the documentation (P-169 or medical documentation from attending Physician) to Administration and Finance.

C. Required Documentation

1. Employees who are participants in the six-month sick plan as well as the Accumulated Sick Leave Plan (15 day plan) may be required to submit medical documentation if their sick leave exceeded three consecutive days.

D. Electronic Mail Message

Whenever an employee returns to duty from sick leave an electronic mail message shall be transmitted at or near the beginning of the shift indicating his/her return to duty, (refer M.O.P. Chapter 13).

1.13 MEDICAL LEAVE OF ABSENCE

A. Upon qualification under the General Guidelines of the Collective Bargaining Units, may request a medical leave of absence without pay for a period not to exceed six (6) months with supporting medical documentation.

B. Medical leaves shall upon the request of the employee, be extended or renewed for an addition period not to exceed six (6) months.

C. Before any member may return to work from a medical leave of absence, a medical release from the attending Physician must be provided to the Administrative Deputy Commissioner's Office.

1.14 UNPAID MATERNITY/PATERNITY LEAVE

Unpaid maternity leaves, not to exceed six (6) months, shall be granted upon request of an employee. Maternity leaves shall, upon the request of the employee, be extended or renewed for an additional period not to exceed six (6) months (refer M.O.P. Chapter 10).

A. At their sole discretion, employees may use vacation time, personal leave time, or compensatory time before being taken off the payroll and going on unpaid maternity leave.

- B. Employees may return to full duty prior to the expiration of the maternity leave.
- C. Employees desiring to use the additional six (6) month period of maternity leave must notify the Department ten (10) days prior to the expiration of the original six month maternity leave.
- D. Vacation carryover shall be allowed only in those circumstances specifically permitted by the respective collective bargaining agreement. No personal leave carryover shall be allowed.
- E. An employee's vacation entitlement and vacation anniversary date shall be adjusted in accord with the respective collective bargaining agreements.

2.0 FAMILY AND MEDICAL LEAVE ACT POLICY

2.1 POLICY

In compliance with the Family and Medical Leave Act (herein referred to as "FMLA"), which was signed into law August 5, 1993, with an implementation/effective date of February 5, 1994, the City of Buffalo will grant job protected unpaid family and medical leave to eligible male or female employees for up to 12 weeks per 12 month period for any one or more of the following reasons:

- A. The birth of a child and in order to care for such child or the placement of a child with the employee for adoption of foster care (leave for this reason must be taken within the 12-month period following the child's birth or placement with the employee; or
- B. In order to care for an immediate family member (spouse, child or parent) of the employee if such immediate family member has a serious health condition; or
- C. The employee's own serious health condition that prevents the performance of at least one of the essential functions of his/her position.

The FMLA pre-empts only those aspects of collective bargaining agreements that are less beneficial than the rights provided for in the FMLA.

2.2 DEFINITIONS

- A. "12-Month Period" - means a rolling 12-month period measured backward from the date leave is taken and continuous with each additional leave taken.
- B. "Spouse" - can include common-law relationships. There is, however, a special limitation when both spouses are eligible employees of the City of Buffalo. In this case, both employees are limited to a combined total of 12 work weeks of leave if the leave is taken because of a birth or placement of a child or the care of a parent with a serious health condition.

- C. "Child" - means a child either under 18 years of age, or 18 years of age or older who is incapable of self-care because of a mental or physical disability. An employee's child is one for whom the employee has actual day-to-day responsibility for care and includes a biological, adopted, foster or step-child.
- D. "Serious Health Condition" - of an employee, spouse, child or parent is defined as an illness, injury, impairment, or physical or mental condition of that person which involves:

EITHER

- A. In patient care involving at least an overnight stay in a hospital, hospice or residential medical care facility.

OR

- B. Continuing treatment by a health care provider in any one or more of the circumstances described below:
- a. A period of incapacity of more than three consecutive calendar days, and any subsequent treatment or period of incapacity relating to the same condition that also involves:
 - i. treatment two or more times by a health care provider, (or by others under the supervision of, or on orders of, or referral, by a health care provider), **or**
 - ii. treatment by a health care provider on at least one occasion that results in a regimen of continuing treatment under the supervision of the health care provider.
 - b. Any period of incapacity due to pregnancy, or for prenatal care.
 - c. Any period of incapacity, or treatment for such incapacity, due to a "chronic serious health condition," which is defined as one that:
 - a. requires periodic visits to a health care provider; and
 - b. continues over an extended period of time; and
 - c. may cause episodic rather than a continuing period of incapacity.
 - d. A period of incapacity which is permanent or long term due to a condition for which treatment may not be effective. The

employee or immediate family member must be under the continuing supervision of, but need not be receiving treatment by, a health care provider. (i.e. Alzheimer's, severe stroke or the terminal stages of a disease.

2.3 COVERAGE AND ELIGIBILITY

To be eligible for family/medical leave an employee must:

A. have worked for the City of Buffalo for at least 12 months:

AND

B. have worked at least 1250 hours over the previous 12 month period.

2.4 INTERMITTENT OR REDUCED LEAVE

A. An employee may take leave intermittently (a few days or a few hours at a time) or on a reduced leave schedule to care for an immediate family member's or the employee's own serious health condition, when "medically necessary." "Medically necessary" means that there must be a medical need and that the leave can best be accomplished through an intermittent or reduced leave schedule.

B. The employee may be required to transfer temporarily to a position with equivalent pay and benefits that better accommodates recurring periods of leave when the leave is planned based on scheduled medical treatment.

C. An employee may take leave intermittently or on a reduced leave schedule for the birth or placement for adoption or foster care of a child only with the consent and approval by the Commissioner.

D. For part-time employees and those who work variable hours, family and medical leave entitlements are calculated on a pro-rata basis. A weekly average of the hours worked in the 12 weeks preceding the start of the leave should be used for calculating the employee's normal workweek.

2.5 SUBSTITUTION OF PAID VACATION TIME

A. An employee will be required to substitute accrued vacation time for any part of a family/medical leave taken for any reason.

B. If an employee has exhausted accrued paid vacation time prior to or will exhaust during a portion of family/medical leave, the employee may request an additional period of unpaid leave to be granted so that the total of paid and unpaid leave provided equals 12 weeks.

2.6 NOTICE REQUIREMENT

- A. An employee is required to give 30 days notice in the event of a foreseeable leave. A "request for Family/Medical Leave" form should be completed by the employee and returned to the Division of Labor Relations. In unexpected or unavoidable situations, an employee should provide as much notice as is practicable, usually verbal notice within one or two business days of when the need for leaves becomes known to be followed by a completed "Request for Family/Medical Leave" form.
- B. If an employee fails to give 30 days notice for a foreseeable leave with no reasonable excuse for the delay, the leave will be denied until 30 days after the employee provides notice.

2.7 MEDICAL CERTIFICATION

- A. For leaves taken because of the employee's or a covered family member's serious health condition, the employee will be required to submit a completed "Physician/Practitioner Certification" form and return the certification to the Division of Labor Relations. Medical certification must be provided by the employee within 15 days after requested, or as soon as is reasonably possible.
- B. The City may require a second (or third) opinion at its own expense, periodic reports on the employee's status and intent to return to work, and a fitness-for duty report to return to work.

All documentation related to an employee's or family member's medical condition will be held in strict confidence and maintained in a separate employee medical records file.

2.8 EFFECT OF BENEFITS

- A. A full time employee granted a leave under this policy will continue to be covered under the City's group medical and life insurance plans with the same conditions as coverage would have been provided if they had been continuously employed during the leave period.
- B. Any employee contributions (where applicable) will be required either through payroll deduction or by direct payment to the City. The employee will be advised in writing at the beginning of the leave period as to the amount and method of payment. Employee contribution amounts are subject to any change in rates as may occur while the employee is on leave.
- C. If an employee's contribution is more than 30 days late, the City may terminate insurance coverage.
- D. If the City pays the employee contributions missed by the employee while on leave,

the employee will be required to reimburse the City for all delinquent payments (through a payroll deduction schedule) upon return from leave. The employee will be required to sign a written statement at the beginning of the leave period authorizing the payroll deduction for delinquent payments.

- E. If the employee fails to return from family/medical leave for reasons other than (1) the continuation of a serious health condition of the employee or a covered family member thereof, or (2) circumstances beyond the control of the employee (certification required within 30 days of failure to return for either reason), the City may seek reimbursement from the employee for the portion of the premiums paid by the City on behalf of that employee during the leave period.
- F. Family/medical leave will be treated as continuous service (i.e. no break in service) solely for purposes of vesting and eligibility to participate in an applicable retirement program.
- G. Employees do not receive or accrue any other employment benefits while on Family/Medical leave, and accrue no seniority, unless specifically provided for by a collective bargaining agreement. However, to the extent that an employee is taking an otherwise available leave concurrent with Family/Medical leave, any benefits or accruals which may be associated with the available leave will be in effect for the duration of that leave period.

2.9 JOB PROTECTION

- A. If the employee returns to work following the conclusion of family/medical leave, (maximum of 12 weeks) (s)he will be reinstated to his/her former position or an equivalent position with equivalent pay, benefits and status.
- B. The employee's restoration of rights are the same as they would have been as if the employee had not been on leave. Thus, if the employee's position would have been eliminated or the employee would have been terminated but for said leave, the employee would not have the right to be reinstated upon return from the leave in these instances.
- C. If the employee fails to return following the conclusion of a family/medical leave, the employee will be reinstated to his/her same or similar position, only if available, in accordance with applicable laws. If the employee's same or similar position is not available, the employee may be terminated.

3.0 SERVICE CONNECTED INJURIES - (INJURED ON DUTY)

3.1 POLICY

The Department recognizes that from time to time employees may become sick or injured as a result of the performance of their duties. It is the policy of the Buffalo Police Department to extend to its employees all those benefits that have been agreed to in the

respective collective bargaining agreements as well as benefits granted by state and federal law. Strict adherence to applicable Departmental procedures is required. (Refer to General Municipal Law 207-c)

3.2 REPORTING A SERVICE CONNECTED INJURY/ILLNESS – SWORN MEMBERS

An Officer shall report any on duty injury or illness, no matter how minor, to their supervisor and the Commissioner of Police within 72 hours of the occurrence and shall seek immediate medical treatment. Notification of the injury/illness shall be made on the required reports (see section 3.4 below). In the event an Officer is physically unable to submit the required reports, the on-duty supervisor, a family member, union representative or, other designee may do so on their behalf.

A. Non-Traumatic or Non-Life Threatening Injury/Exposure/Illness:

- Injured/ill Officer shall immediately advise their on-duty supervisor of any injury/illness and shall seek immediate medical treatment at Erie County Medical Center. The injured Officer shall report and be seen at either:

ECMC
Great Lakes Physicians/
Occupational Health
462 Grider Street
Buffalo, NY 14215
0800-1600 hours

ECMC
Emergency Room Department
462 Grider Street
Buffalo, NY 14215
24 hours/7 days a week

- Each injured/ill Officer must be initially examined by ECMC Emergency Room or Great Lakes Physicians/Occupational Health after incurring a service related injury/illness.
- The injured Officer must complete the following required documents:
 - A. Form P-62 – Accident Injury/Illness Report-Service Connected
 - B. Form P-169 – Report of Commanding Officer on Member Requesting Injured on Duty Status
 - C. Form P-73 – Intra-departmental Correspondence from injured Officer and each Witness
 - D. “Order Regarding Medical Treatment While Injured on Duty” compliance letter

The above forms and letters are available at each Command. The injured Officer’s immediate supervisor shall review, sign and fax (851-8012) all paperwork immediately to the Administration Police Commissioner. Signed and completed hard copies (originals) shall be immediately forwarded via intra-departmental business to the Administration Deputy Police Commissioner.

- At the conclusion of medical treatment, the Officer shall notify his/her on-duty supervisor as to his/her work status by providing a copy of the discharge

instruction paperwork. This paperwork is given to each Officer and documents the Officer's ability to work (i.e. return to full duty, limited duty, ordered off duty). The Supervisor shall immediately review, fax (851-8012) and forward the paperwork to the Administration Deputy Police Commissioner.

- All injuries must be reported via an electronic e-mail message by the end of the injured Officer's shift.
- If the injured/ill Officer chooses to follow-up with his/her primary physician, the injured Officer shall:
 - Notify the Commissioner of Police at (716) 851-4588 with the name of the treating physician within 72 hours of the occurrence.
 - Notify the Commissioner of Police at (716) 851-4588 with the name of any specialists their primary physician refers them to within 72 hours of the referral.
- The City of Buffalo may require an injured Officer to submit to one or more medical examinations to determine eligibility, the existence of a disability, continued eligibility, proper treatment, and related issues.
- Failure to submit the required paperwork within 72 hours of the injury/illness OR failure to receive an immediate medical examination, shall preclude any award of benefits pursuant to GML 207C.
- IOD status will be reviewed by the IOD Committee and determined by the Commissioner within 21 calendar days from the **receipt** of the required documents for Police Officers and within 10 calendar days from the **receipt** of the required documents for Probationary Police Officers.
- Written notice of the Police Commissioner's determination concerning an Officer's eligibility for NYS GML Section 270-c benefits shall be provided to the affected Officer and to the Police Benevolent Association (PBA).

B. Traumatic or life-threatening injury/illness:

- In the event that an Officer has life threatening or severe injuries or illness he/she shall seek immediate medical treatment at the closest appropriate facility.
- The on-duty supervisor shall fill out the required injured on duty paperwork and the same requirements shall be followed as set forth under the non-traumatic injuries/illness section.

C. Recurrence or aggravation of a prior service connected injury/illness:

- In the event an Officer claims a recurrence or aggravation of a prior approved GML Section 207-c injury, he/she shall notify his/her supervisor and shall comply with Departmental procedures as set forth under Section 3.2

3.3 **THE DEPARTMENT'S DESIGNATED MEDICAL PROVIDERS' ROLE**

The *department's designated medical provider's role* is primarily an evaluation and consulting service that advises the Department in dealing with the medical problems of Department employees. It provides medical documentation for claims of service-connected injuries/illnesses. It determines appropriate courses of medical treatment and it reviews medical reports from various sources. At the option of the employee it may also provide medical treatment for those employees incurring service-connected injuries/illness. While it is a requirement that each sworn member must be examined by *designated medical provider* after incurring a service related injury/illness that requires medical attention, the sworn member may opt to be treated by a primary care physician of his/her own choosing.

3.4 **REQUIRED REPORTS - SWORN MEMBERS**

In all cases in which a sworn member claims a service connected injury/illness, the following reports must be completed.]

- A. Form P-62 (Accident Injury/Illness Report – Service Connected) shall be completed by the member claiming the service connected injury/illness or recurrence or aggravation of a prior service connected injury/illness. It shall be prepared on the member's behalf by his/her supervisor, family member, union representative or other designee if the member is physically unable to do so. The responsibility for ensuring the P-62 is properly prepared and forwarded always rests with the member claiming the service connected injury/illness.
- B. Form P-169D (Report of Commanding Officer on Member Requesting Injured on Duty Status). The report must specify the exact nature of the injury and it shall recite in detail how the injury/illness was incurred. This form shall be signed by the on-duty supervisor.
- C. Form P-73 – the sworn member shall prepare an Intra-Departmental Memorandum in which (s)he shall submit a complete report of all the circumstances relating to his/her claim of a service connected injury/illness or a claim of recurrence or aggravation of a prior service connected injury/illness. Included in the report shall be a statement by the supervisor as to whether the injured/ill sworn member complied with all Departmental procedures.
- D. A statement on an Intra-Departmental Memorandum (P-73) shall be completed by each witness to the incident.
- E. The “Order and Directive Regarding Medical Treatment While Injured on Duty” compliance letter must be signed and dated by the sworn member claiming a service connected injury/illness.

F. A copy of the P-62, P-169D, all related Intra-Departmental Memoranda (P-73) and the signed compliance letter shall be faxed to the Commissioner or his/her designee prior to 0800 hours of the ensuing business day at (716) 851-8012.

G. An electronic mail message shall be transmitted. Included in the message shall be:

1. Name
2. Rank
3. Command/assignment
4. Manpower
5. Incident number
6. Time and date of injury
7. Location of treatment
8. Remained on duty (yes or no)
9. Summary

3.5 SUPERVISOR'S DUTY TO INVESTIGATE - SWORN MEMBERS

A. In every instance of a sworn member's claim of a service connected injury/illness or a claim of a recurrence or aggravation of a prior service connected injury/illness, the sworn member's Supervisor shall immediately conduct a thorough investigation of the incident and shall report his/her findings in writing (refer M.O.P. Chapter 13). Included in the Supervisor's investigation shall be statements from all witnesses to the incident (refer M.O.P. Chapter 13). The final determination as to the validity of the injured on duty claim rests solely with the Police Commissioner or his/her designee.

B. The Supervisor of a sworn member claiming a service connected injury/illness or recurrence or aggravation of a prior service connected injury/illness is responsible for overseeing the sworn member's compliance with all applicable reporting procedures.

3.6 DETERMINATION BY COMMISSIONER - SWORN MEMBERS

All reports concerning claims of service connected injuries/illness or claims of recurrence or aggravation of a prior service connected injury/illness of sworn members will be used by the Commissioner or his/her designee for final determination on the injury claim. Whenever a question arises as to whether or not the injury/illness was incurred in the performance of duty, or the available information does not clearly indicate the injury/illness was the result of the performance of duty, the Commissioner or his/her designee may call for such additional reports, and enlist such assistance as (s)he may deem necessary, to aid in making a determination. The Police Commissioner may require the member to submit to one or more medical examinations prior to his/her determination. Upon the completion of his/her review, the Commissioner or his/her designee shall make the determination a permanent part of the record of the case. No sworn member is to be carried on the roles as being on IOD status until such determination has been made by the Commissioner or his/her designee.

A. The Police Commissioner and/or his/her designee shall render a determination within

21 calendar days after his/her **receipt** of all required reports and documentation for Police Officers claiming a service connected injury/illness.

- B. The Police Commissioner and/or his/her designee shall render a determination within 10 calendar days after his/her **receipt** of all required reports and documentation for Probationary Police Officers claiming a service connected injury/illness.
- C. In the event that the Commissioner of his/her designee fails to make a determination on the injured member's IOD status within the designated time frames, IOD status will be automatically granted to the injured member.
- D. Sworn members whose claims for service connected injury/illness are denied by the Department are entitled to a GML Section 207-c hearing as detailed in Section 3.14 and shall be afforded the opportunity to work in a light duty assignment upon a request by the sworn member to the Commissioner of Police.

3.7 TREATMENT OF SERVICE CONNECTED INJURIES/ILLNESS-SWORN MEMBERS

A. Department's Designated Medical Provider

1. At the option of the sworn member, the *department's designated medical provider* may provide the regular medical care for those sworn members incurring a service connected injury /illness.
2. When the *designated medical provider* recommends that other and/or additional medical attention be furnished to the sworn member, such medical service shall be provided and paid for by the City, when approved by the Commissioner or his/her designee, and audited by the City Auditor.

B. Private Physician

Sworn members incurring a service connected injury/illness may select a physician or surgeon of their own choosing when medical or surgical attention is necessary.

If the injured/ill member chooses to follow-up with his/her own physician, that injured/ill member **shall**:

1. Notify the Commissioner of Police at (716) 851-4588 with the name of the treating physician within 72 hours of the injury/illness occurrence.
2. Notify the Commissioner of Police at (716) 851-4588 with the name of any specialist that their primary physician refers them to within 72 hours of the referral.

C. Prior Authorization Required

Authorization must be obtained in writing from the Commissioner or his/her designee **prior** to any elective (non-emergency) treatment, procedure or diagnostic test pertaining to a service connected injury/illness. Prior authorization is also required for all specialist referrals. Written authorization must be presented to all health care

providers that are attending to the member's service connected injury/illness, *prior* to providing services.

3.8 TREATMENT BY PRIVATE PHYSICIAN - PROGRESS REPORTS

Whenever a sworn member elects to consult a private physician for a service connected injury/illness, the private physician will be required to submit periodic reports detailing the nature and frequency of treatment, the member's medical progress, his/her availability for full or limited duty, and any other pertinent information concerning the service connected injury/illness. After review by the Commissioner or his/her designee, such reports shall become a part of the member's medical record.

3.9 CLAIMS FOR TREATMENT - SWORN MEMBERS

No claims for medical or surgical treatment for a service connected injury/illness shall be valid and enforceable against the City unless prior authorization (refer M.O.P. Chapter 13) had been provided to the service provider.

3.10 CHARGES AND BILLS - SWORN MEMBERS

A. All fees and charges for the medical or surgical treatment of a sworn member incurring a service connected injury/illness shall be limited to such charges as listed in the NYS Compensation Schedule for similar treatment, and the fees and charges must be reasonable and a direct result of necessary treatment.

B. For purposes of the City Audit Department's requirement, all fees and charges must be clearly itemized and they must be accompanied by the attending physician's or emergency room treatment reports which clearly state and explain the treatment administered.

C. In cases in which the member or his/her physician has failed to comply with all applicable procedures, or when there is some question about the charges or fees, the bills together with an explanation of the circumstances shall be submitted to the Commissioner or his/her designee for determination.

3.11 EXAMINATION BY THE **DEPARTMENT'S DESIGNATED MEDICAL PROVIDER** - SWORN MEMBERS

Upon notice, the Commissioner or his/her designee shall be entitled to have any sworn member claiming a service connected injury/illness, be examined by the *department's designated medical provider* or a physician/surgeon recommended by the *designated medical provider*. A refusal by the injured/ill sworn member to submit to such examination(s) shall be deemed a waiver of the member's rights under General Municipal Law 207c, including the right to receive salary and the right to have the City of Buffalo pay for medical/healthcare expenses related to the service connected injury/illness.

3.12 DISCONTINUANCE OF MEDICAL SERVICE - SWORN MEMBERS

The Commissioner or his/her designee, upon the recommendation of the *designated medical provider*, may notify in writing the attending physician or surgeon to discontinue

such services at City expense and thereafter the City shall be relieved of any further responsibility for payment of additional medical or surgical service rendered after the date of notification.

3.13 RETURN TO DUTY - SWORN MEMBERS

- A. Sworn members incurring a service connected injury/illness shall return to full duty when they have recovered and are physically able to perform their duties. In the event that the member's treating physician or the *department's designated medical provider* or a physician or surgeon *examining the officer on behalf of the department* certifies that the sworn member has recovered and is physically able to perform his/her duties, the sworn member will be removed from IOD status and returned to duty. If, however, the sworn member's private physician disputes such certification, the sworn member is entitled to a hearing before his/her return (see Section 3.14).
- B. If as a result of the hearing it is determined that the sworn member has recovered and is able to perform his/her duties, and the sworn member continues to refuse to return to work, the sworn member shall be deemed to have waived his/her rights to expenses for medical treatment and/or hospital care rendered and for salary and wages payable after such refusal. Sworn members may appeal an adverse ruling by initiating an Article 78 proceeding in State Supreme Court.
- C. Sworn members incurring a service connected injury/illness that have recovered sufficiently to perform light/limited duties, may be assigned to perform light/limited duties consistent with the nature of their physical restrictions. In the event that a treating physician or the *department's designated medical provider* or a physician or surgeon *examining the officer on behalf of the department* certifies that the sworn member has sufficiently recovered and is physically able to perform light/limited duties, the member may be removed from IOD status and assigned to a light/limited duties, the sworn member will be removed from IOD status and assigned to a light/limited duty assignment. If, however, the sworn member's private physician disputes such certification, the sworn member is entitled to a hearing before his/her return (see section 3.14).
- D. All sworn members of the Department who are returning to duty (full or light/limited) from a service connected injury/illness must provide medical clearance to the Commissioner or his/her designee from an authorized physician, *prior* to returning to such duty. The Commissioner or his/her designee shall then notify the proper Command, by way of E-mail, of the member's return to duty.
- E. All injured/ill members shall, within 48 hours of receipt of any documentation concerning a change in their duty status (i.e. released for full or light/limited duty), notify and provide such documentation to the Commissioner of his/her designee.
- F. Sworn members shall not be allowed to return to duty (full or light/limited) until a

release has been signed by a competent medical authority which authorizes the members return to duty and the Commissioner or his/her designee has notified the Command.

3.14 GENERAL MUNICIPAL LAW (“GML”) SECTION 207-c HEARING PROCEDURE

In the event a sworn Officer of the Police Department is adversely affected by a determination of the City of Buffalo or Police Department, regarding initial eligibility, case management decisions, or return to work orders concerning General Municipal Law Section 207-c, he/she may contest the adverse determination in accordance with the hearing procedure agreement between the City of Buffalo and the PBA.

- A. Any sworn Officer contesting a City decision shall, individually or through his/her bargaining representative, submit a written request, to the Commissioner of Police or his/her designee, for a hearing within 20 calendar days of receipt of the notice of any adverse determination, specifying the basis for the challenge to the determination and attaching documentation from a treating physician supporting the Officer’s request.
- B. Failure to submit a written request as set forth herein shall constitute acceptance of the City’s decision unless excused by the Commissioner.
- C. At least two weeks prior to the scheduled hearing, absent extenuating circumstances, an Officer shall submit to the City his/her medical documentation in support of his/her claim.
- D. The Officer may appeal an adverse decision by the hearing Officer pursuant to the provisions of Article 78 of the New York State Civil Practice Law and Rules.

3.15 SERVICE CONNECTED INJURY/ILLNESS - CIVILIAN EMPLOYEES

Civilian members of the Department who incur a service connected injury/illness are governed by the NYS Workmen's Compensation System and their respective collective bargaining agreements.

- A. In the event that a civilian employee sustains a service connected injury/illness, the employee must:
 - 1. immediately notify his/her superior;
 - 2. seek medical treatment if required;
 - 3. prepare form GU-77.
- B. A copy of form GU-77 will be forwarded to Administration and Finance for filing in the member’s personnel file. That unit shall also send the original to the City of Buffalo Division of Labor Relations who then will become responsible for handling all matters concerning the injured/ill employee. Civilian employees incurring a service connected injury/illness shall fully cooperate with the Division of Labor Relations.

- C. All civilian employees of the Department who are returning to duty from a service connected injury/illness must first provide a full duty clearance to the Commissioner or his/her designee, prior to returning to duty. Civilian members shall not be allowed to return to duty until a release has been signed by competent medical authority which authorizes the civilian member's return to duty. An e-mail message should be sent and the release should then be forwarded the Office of Administration and Finance (personnel records) for filing purposes.

3.16 EXPOSURE TO CONTAMINANTS

Whenever employees of the department become exposed to chemical contaminants, or any other type of noxious material they shall:

- A. immediately notify their Superior Officer;
- B. if (s)he is a sworn member, prepare form P-1370 (Exposure Incident Report) and form P-62 (Accident Injury/Illness - Service Connected);
 - 1. if the sworn member is reporting off duty with a service connected injury/illness as a result of the exposure, form P-169D and an Intra-Departmental Memorandum must also be prepared, and the sworn member must complete all other IOD procedures (refer to M.O.P. Chapter 13);
- C. if (s)he is a civilian employee, prepare form P-1370 and GU-77;

3.17 REPORTING SERVICE CONNECTED INJURY/ILLNESS TO THE STATE

Commanding Officers of all units shall be responsible for making the required entries on form DOSH-400 (NYS Department of Labor Log and Summary of Occupational Injuries and Illnesses).

A. Posting Requirements

During the entire month of February of each year a copy of the totals and the information contained on the right half of form Dosh-400 must be posted in each command in a place where notices to members are customarily posted. Even if there were no illnesses or injuries during the year, zeros must be entered on the totals line, and the form posted.

B. Commanding Officer to Certify Totals

The Commanding Officer of each unit shall be responsible for compiling the annual summary totals on form DOSH-400 and shall certify that the totals are true and complete by signing at the bottom of the form.

3.18 EXPOSURE CONTROL PLAN

The Buffalo Police Department has established this written exposure control plan in accordance with OSHA standard 29 CFR 1910.1030, for all employees who handle, store, use, process or dispose of potentially infected blood and blood products or who may be exposed to bloodborne pathogens. This program includes requirements for personal protective equipment, housekeeping procedures, training exposure reporting and

record keeping.

For sworn personnel, the office of the Administration Deputy Police Commissioner (Administrative) will manage the bloodborne pathogens exposure-control program. For civilian employees, the City's Department of Human Resources will maintain all related records. The Department will ensure proper adherence to the program through periodic audits. The exposure-control plan will be reviewed and updated at least annually. The review process will include soliciting input from Buffalo Police Department employees.

DEFINITIONS

1. Biological Hazard – any viable infectious agent that presents a potential risk to human health
2. Bloodborne Pathogen – microorganisms that can cause diseases such as human immunodeficiency virus (HIV) and Hepatitis B (HBV), which are spread through contact with infected blood or blood products.
3. Exposure Incident – contact with blood or other potentially infectious material capable of causing infection, including percutaneous contact (through non-intact skin), and permucosal contact (through mucous membranes, as of the eye).
4. Human Immunodeficiency Virus (HIV) – is the virus that causes AIDS. After a latency period, the virus causes the weakening and destruction of the body's ability to fight off germs and infections. Blood, semen, vaginal fluids and certain other body fluids transmit it.
5. TB – Tuberculosis – is spread by inhaled airborne droplets of the sputum of infected persons. These droplets are produced in highest concentrations when an infected person coughs or sneezes near another person.
6. Medical Wastes/Infectious Wastes – Blood, blood products, bodily fluids, any waste from human and animal tissues, tissue and cell cultures, human or animal body parts removed by means of surgery or autopsy.
7. Other Potentially Infectious Material – in addition to blood, semen, vaginal secretions, cerebrospinal fluid, synovial fluid, pericardial fluid, amniotic fluid, any body fluid visibly contaminated with blood. Not included are non-bloody feces and urine.
8. Universal Precautions – preventing exposure to bloodborne pathogens by assuming all blood and bodily fluids to be potentially infectious, and taking appropriate protective measures.

TRAINING

The Police Academy will provide training on bloodborne pathogens exposures to any/all employees who assigned duties put them at risk of exposure including Police Officers,

Cellblock Attendants and custodial staff.

All employees in affected jobs will receive training upon hiring, and yearly thereafter. The training will include:

- Department policy
- Types and transmission of bloodborne pathogens/infectious diseases
- General safety rules
- Universal precautions
- Use of personal protective equipment (PPE)
 - Gloves
 - Masks
 - Sharps containers for patrol vehicles
 - Sharps containers for the station houses
- Medical waste disposal procedures
- Post-exposure treatment and procedures
- HBV vaccinations

ENGINEERING CONTROLS AND WORK PRACTICES

Engineering controls and work practice controls will be used to prevent or minimize exposure to bloodborne pathogens. Employee input will be solicited regarding the identification, evaluation, and selection of new engineered devices or other engineering or work practice controls designed to reduce needlestick or other contaminated sharps injuries.

Department personnel must follow these procedures for controlling exposure to bloodborne pathogens and infectious diseases:

- Supervisors must ensure their employees are trained in proper work practices; universal precautions; the use of personal protective equipment (PPE); and proper cleanup and disposal techniques. Those employees requiring training should be referred to the Academy for same.
- Supervisors are responsible for ensuring the Department provided PPE (gloves and masks) is available to employees.
- Personnel should use provided sharps containers for disposal of sharps and contaminated.
- Do not eat, drink, smoke, handle contact lenses or apply cosmetics in areas where exposure to bloodborne pathogens is possible. Do not store food and drinks in refrigerators or cabinets where any potential disposable latex gloves if:
 - You have cuts, abrasions, chapped hands, dermatitis or similar conditions;
 - You are in contact with a person with an open skin wound and active bleeding;
 - or
 - You are handling materials with blood or any other bodily secretions.
- Wash your hands as soon as possible after handling potentially infectious materials and after removing personal protective equipment.

- Remove all personal protective equipment when leaving the work area and if the equipment is contaminated, place it in a proper disposal container.
- Remove any contaminated clothing before entering other areas of the building or leaving the building.

MEDICAL WASTES

- Separate all medical/infectious waste from other waste at the point of origin and place (except for sharp objects) in double, disposable red bags with “Biohazard” and “Infectious waste” labels.
- Place all “sharps”, such as needles, scalpels, razor blades or broken glass, in puncture-proof, leak-proof labeled or color coded sharps containers for proper disposal.
- Disinfect contaminated reusable equipment before washing for re-use.
- Decontaminate floors and other surfaces with a 1:9 bleach to water solution.

HEPATITIS B (HBV) VACCINATIONS

- The Hepatitis B (HBV) vaccinations will be provided at no cost to Department Employees whose job title includes that would put the employee in a position to reasonable anticipate exposure to human blood or other potentially infectious materials. These job titles include Police Officer and Cellblock Attendant.
- Any entitled employee wishing to receive the HBV vaccination should contact Great Lakes Physician Services at 898-4153. They are located at the Erie County Medical Center Emergency Room. Office hours are M-F 0800-1600 but they can make arrangements for off hours visits.
- The HBV vaccination is given as a series of 3 shots.
- Department personnel entitled to the vaccination but wishing to decline must sign in a declination form.
- All records of vaccinations or declination forms are retained by Great Lakes Physician Services.

Whenever employees of the Department become exposed to blood, air borne pathogens, chemical contaminants, or any other type of noxious material they shall:

1. Immediately notify their Superior Officer;
2. If the employee is a sworn member, prepare the P-1370 (Exposure Incident Report) and form P-62 (Accident Injury/Illness – Services Connected).
 - If the sworn member is reporting off duty with a service connected injury/illness as a result of the exposure, form P-62, form P-160D, a treatment directive form, and an Intra Departmental Memorandum (P-73) must also be prepared, and the sworn member must complete all other injured on Duty (IOD) procedures as prescribed in the M.O.P. Chapter 13);
 - If the employee is a civilian member, follow the procedure as indicated in Appendix A-“What to do if you have a work related accident/injury”.

- If the employee is a sworn member, all required forms shall be forwarded to the Administrative Deputy Commissioner for proper filing.
- If the employee is a civilian member, all required forms shall be forwarded to Police Headquarters, Administration and Finance, for forwarding to the City's Department of Human Resources.

RECORD KEEPING

- Sworn personnel – It is the responsibility of the Administration Deputy Commissioner (Administrative) or his/her designee to file/forward exposure documentation as required and to keep said documents confidential.
- Civilian personnel – It is the responsibility of the City's Department of Human Resources to file/forward exposure documentation as required and to keep said documents confidential.

POST EXPOSURE EVALUATION

Should an exposure incident occur, contact your supervisor immediately. Each exposure must be documented on an "Exposure Report Form". An immediately available, confidential medical evaluation and follow-up will be conducted by the Erie County Medical Center, 462 Grider Street, Buffalo, NY 14215.

The following steps will be taken:

- Document the routes of exposure and how exposure occurred.
- Make entry in "Sharps Injury Log" if incident involves a percutaneous injury from contaminated sharps.
- Identify and document the source individual, unless the employer can establish that identification is infeasible or prohibited by State or Local law.
- Obtain consent and test source individual's blood as soon as possible to determine HIV and HBV infectivity and document the source's blood test results.
- Provide the exposed employee with the source individual's test results and information about applicable disclosure laws and regulations concerning the source identity and infectious status.
- After obtaining consent, collect exposed employee's blood as soon as feasible after the exposure incident and test blood for HBV and HIV serological status.
- If the employee does not give consent for HIV serological testing during the collection of blood for baseline testing, preserve the baseline blood sample for at least 90 days.

The circumstances of the exposure incident will be reviewed to determine if procedures, protocols, and/or training need to be revised. The review will involve the following persons, in addition to the exposed employee:

In cases of sharps injury, the "Sharps Injury Log" will be examined to identify problematic equipment and/or procedures, for the purpose of determining the need for more effective equipment and/or revised procedures.

The health care professional(s) responsible for employees' post-exposure evaluation and follow-up will be given:

- A copy of the OSHA Bloodborne Standard;
- A description of the employee's job duties relevant to the exposure incident;
- Circumstances and route(s) of exposure; and
- Relevant medical records, including vaccination status.

The employee will be provided with a copy of the evaluating healthcare professional's written opinion within 15 days after completion of the evaluation.



BYRON W. BROWN
MAYOR

CITY OF BUFFALO
DEPARTMENT OF HUMAN RESOURCES
Compensation & Benefits



ANTOINETTE PALMER
DIRECTOR

What to do when an employee has a work related accident/injury:

- You **must** provide or make accessible to employees a City of Buffalo accident/injury report **and** POMCO packet-these can be found on the City of Buffalo intranet under Workers Compensation. The employee must complete all forms and return to supervisor for review and signature ASAP after incident. Supervisor/timekeeper must then provide complete accident/injury forms to the Office of Compensation and Benefits. Failure to do so in a timely manner may result in the employee being responsible for medical bills. If the Compensation and Benefits office has no knowledge of an accident/injury, any medical bills for that employee will be returned to the doctor's office or hospital with a denial letter.
- Ensure the supervisor is abreast of all on goings of employees claim/injury at all times
- In addition to the forms completed by the employee, the C-2F Employer's First Report of Work Related Injury/Illness needs to be completed by the Supervisor and provided to the Office of Compensation and Benefits as well. This can be found on the City of Buffalo intranet under Workers Compensation as well.
- Employee should provide medical documentation from their doctor if it is determined that they are disabled and unable to return to work. No employee should be automatically be considered and/or marked WC without the proper approved documentation from a medical professional.
- The first 5 consecutive scheduled work days that an employee is off and disabled by a doctor are **not** reimbursable, employees may use their sick time (if they have any available) for these days.
- After the first 5 consecutive scheduled work days that they are off and disabled by a doctor, they should be marked WC and their claim will be considered "LOST TIME" and they may be eligible to receive workers compensation benefits for their lost time. If eligible, you will receive a request, from the City's TPA-POMCO Group, for the completion of the C-240. This will be used to calculate the Workers' Compensation rate the employee will receive. Employee will not begin receiving workers compensation payment until medical evidence has been received and verified by the City's TPA from the employees' doctor stating: diagnosis, disability, prognosis etc.

- Starting on the 6th consecutive scheduled work day they are off and disabled by a doctor, you will continue marking them WC. They will be paid workers' compensation for the 6th through the 10th day. If they are disabled for more than 10 consecutive scheduled work days, their whole time (back to first day of lost time) will be counted as WC.
- The employee should be following doctors' orders and attending all doctors' appointments. They must also be providing you updated medical documentation if their doctor extends their time of disability or they are released you to return to work. This information should be submitted to the Office of Compensation and Benefits immediately in order to ensure timely processing of continued benefits or suspension of benefits due to returning to work.
- Please note that any lost time that cannot be verified by their doctor will not qualify as workers compensation and they will not be paid unless they use your sick time (if they have any available) for these days.

What happens when the above listed steps are not completed:

- There could be a delay in paying any medical bills that were incurred for this injury.
- There could be a delay in paying workers compensation payments to the employee.
- Necessary services and/or treatments may be delayed or denied

Worker's compensation payments are calculated by the City's TPA and checks are processed in the audit department at City Hall and will be mailed to the employees' address on file. Employees should make sure that you have their current address and home phone number to avoid any delay in receiving checks in the mail.

Below is the information needed to provide to medical providers for billing of employees workers compensation services and should you have questions regarding forms/information requested:

POMCO Group
 PO Box 325
 Syracuse, NY 13206
 Lisa Silvestri
 877-236-7445 ext. 4278
 315-433-5473 (fax)

If you have questions regarding the City of Buffalo's workers compensation process you may contact the below:

Office of Compensation and Benefits
 City Hall 10th Floor-Room 1014
 Chantina Harris
 716-851-9621 (office)
 716-851-5828 (fax)

THIS INFORMATION APPLIES ONLY FOR THE FOLLOWING UNIONS LISTED BELOW:

4.0 **ASSISTANCE TO THE FAMILY OF MEMBERS BECOMING SERIOUSLY ILL, INJURED OR KILLED WHILE ON DUTY**

4.1 **POLICY**

It is the policy of the Buffalo Police Department to assist and support family members and co-workers of Department employees who become seriously ill or injured, or who die while on duty. The Department will notify family members and next of kin in person in a timely manner. In cases of line of duty death, the Department will assign a member to act as a liaison with the family.

4.2 **CONFIDENTIAL IN LINE OF DUTY, SUDDEN DEATHS/SERIOUS INJURY FORM**

A. The Department has instituted a Confidential In Line of Duty Sudden Death/Serious Injury form:

1. Participation in completing the form is optional and is solely within the discretion of each Department employee. Employees are strongly urged to complete the form. It could prove to be of invaluable assistance and comfort to family members during a very difficult time.
2. All completed forms will be handled in a confidential manner. After the employee completes the form (s)he will be provided with an envelope in which the form is to be placed. The employee will seal the envelope and then place his/her initials on the closure flap. The form will not be reviewed nor the envelope opened unless the employee is seriously injured or killed on duty.
3. All sealed and initialed envelopes containing completed forms will be secured in a locked file cabinet in the 911 office.
4. A roster of the employees who have completed this form will be kept by the Duty Officer and the P.B.A. The roster will be maintained by the Administration and Communications Division.
5. In the event of an emergency, serious injury or death, ***the Duty Officer, together*** with an on duty P.B.A. delegate, will open the sealed envelope and review the contents of the form.
6. This form is not a legal or binding document.
7. Any changes in the information contained on the form require that an entirely new form is completed. When a new form has been completed, the employee must seal and initial the new envelope and report in person to the Administration and Communications Division Office, Room #228, during business hours. The new form will be placed in the file and the unopened

envelope containing the old form will be handed to the employee. The roster of participants will then be updated by the Administration and Communication Division.

8. Employees who complete the form will have the option of having this form delivered to their family in the event of an off duty incident resulting in serious injury or death.
- B. Members who opt not to participate in this program are highly encouraged to discuss their plans and wishes with their families in the event of such a catastrophic event. Families of police officers seriously injured or killed in the line of duty frequently become the forgotten victims whose grief and anguish is virtually inconsolable.

4.3 NOTIFICATION

The first news that a Department employee has been seriously injured, taken seriously ill, or killed while on duty is an event that will stay with the family members for the rest of their lives. For this reason, the notification procedure must be performed with compassion, dignity and sensitivity.

- A. Unless relieved by higher authority, the ***Senior on duty Command Officer*** shall be responsible for ensuring that the next of kin is notified. In the event that an employee becomes seriously ill, seriously injured or dies while on duty, the ***senior on duty Command Officer through the Duty Officer*** shall notify the Commissioner, the Deputy Commissioners and the Employee Assistance Coordinator. It is of great comfort to the family that such news be delivered by the highest possible ranking Officer.
- B. The news media shall not be informed of the employees name until the family has been notified. Photographing the injured/dead employee shall be precluded to the extent possible. If the news media has obtained the name of the injured/dead employee, they shall be requested to refrain from publicizing his/her identity until the family has been notified. Police radio communications concerning notification of next of kin shall be avoided to the extent possible.
- C. Notification must always be made in person. In the event that next of kin lives too far away to be notified in person by a member of the Buffalo Police Department, the law enforcement agency in that jurisdiction shall be requested to make the notification. Under these circumstances the notifying law enforcement agency shall be requested to make telephone contact with the Buffalo Police Department while they are making notification to the family. This will enable the family to have their questions and concerns addressed immediately.
- D. The Commissioner, Deputy Commissioner, Police Chaplain, or close friend of the family should be present at the notification if possible. If there is a possibility of getting the family to the hospital before the employee's death, or if none of the above people are readily available, notification should not be delayed.

- E. Two Officers shall be sent to the home of the next of kin. At least one of the officers must be of the rank of Lieutenant or higher. The Officers shall each use a separate Department vehicle in the event that one may be delayed at the home.
- F. The Officers should attempt to determine if the next of kin has any medical problems. If so, medical personnel should be available at the residence to coincide with the notification.
- G. Notification should not be made at the next of kin's doorstep. The Officers should ask to be admitted to the house and should request that the family be seated. Family members shall be told slowly and clearly that the employee has been taken seriously ill, has been seriously injured, or has been killed, as the case may be. If the employee has been killed, family members shall not be given a false sense of hope. The words "died" or "dead" shall be used. As many details as possible about the incident shall be revealed. Graphic or gruesome details shall be handled with utmost sensitivity. A deceased employee shall be referred to by name and never referred to as his/her "body."
- H. Family members should be transported to the hospital in Department vehicles. The police radio shall be shut off and all communication shall be conducted by phone or MCT. The hospital should be notified that the family is en route. If the family insists on driving in their own vehicle, an officer should accompany them.
- I. If young children are at the home, arrangements must be made for childcare.
- J. The seriously ill, seriously injured or dead employee's parents should also be afforded the courtesy of personal notification if possible.
- K. In the event that the Commissioner was not able to make the notification, (s)he shall respond to the residence or the hospital to meet with the family, as quickly as possible.

4.4 ASSISTING THE FAMILY AT THE HOSPITAL

- A. The **Senior on duty Command Officer** shall assign an Officer of the rank of Lieutenant or above to coordinate police operations at the hospital. This officer has the following responsibilities:
 - 1. Arrange with the hospital staff to provide a waiting room to be used by the family, the Commissioner, the officers making the notification and any other person requested by the family.
 - 2. Set aside an area where fellow officers and friends can gather.
 - 3. Establish a media staging area.

4. Update the family concerning the incident and the employee's condition upon the family member's arrival at the hospital.
 5. The employee's family shall be the first to be provided with information concerning the employee's medical condition.
 6. Arrange for transportation of the family back to their residence.
- B. Family members should be provided with the opportunity to see a seriously ill or seriously injured, or dead employee. A police official shall prepare the family member for what (s)he might encounter. The police official shall accompany the family member into the room.
 - C. The officers making the initial notification shall remain at the hospital while the family is present.

4.5 ASSISTANCE TO CO-WORKERS

- A. Employees who were on the scene or who arrived immediately after an employee was critically injured or killed shall be relieved of their assigned duties as quickly as possible after the incident. They shall be allowed to go to the hospital where their co-worker was taken.
- B. The Department Employee Assistance Program (EAP) Coordinator will immediately initiate arrangements to tend to the emotional needs of employees adversely impacted by such an event.
- C. It will be the policy of the Buffalo Police Department to lend outgoing support/services for any seriously injured employee and said employees family members.

4.6 PRE-FUNERAL ARRANGEMENTS

- A. The Commissioner, along with the liaison officer (refer M.O.P. Chapter 13), and the Chief of the respective District designated to coordinate funeral arrangements, shall meet with the members of the deceased employee's family at the family's residence. The Commissioner shall explain the arrangements and accommodations the Department is able to provide. The family shall be offered the option of a police funeral with full honors. The needs and wishes of the family shall prevail over those of the Department.
- B. Unless the family objects, a police officer shall be detailed to guard the family home of the deceased member until after the date of the funeral. If the family resides in the area but outside the city, a request shall be made to the appropriate law enforcement agency to provide this service.

- C. With the permission of the family, the Commissioner shall designate a liaison officer who shall assist the family.

4.7 LIAISON OFFICER'S RESPONSIBILITIES

The liaison officer will serve to facilitate communication between the employee's family and the Department.

- A. The liaison Officer will keep the family up to date concerning the death of the employee and the ensuing investigation.
- B. The liaison Officer will assist the family in making funeral arrangements. If the family chooses to have a police funeral with full honors, the liaison officer will explain all the attendant rituals and ceremonies. The type of funeral arrangements is strictly a family decision.
- C. The liaison Officer shall be available for the family at all times. (S)he shall render all possible assistance including arranging for food, child care and transportation needs. (S)he shall also assist with arranging travel and lodging for out-of-town family members.
- D. The liaison Officer shall assist the family in securing all financial benefits that accrue as a result of the employee's death. A printout of such benefits shall be provided.
- E. The liaison Officer shall arrange to return the deceased employee's personal affects to the family.
- F. The liaison Officer shall notify Concerns of Police Survivors (C.O.P.S.), (573) 346-4911. This organization has people available to assist the families of slain officers.
- G. The liaison Officer shall maintain periodic contact with the family for at least one year after the employee's death.
- H. In the event that there are criminal charges resulting from the employee's death, the liaison officer shall:
 - 1. Keep the family informed of any new developments prior to the issuing of any press releases.
 - 2. Keep the family informed of any court proceedings or parole hearings.
 - 3. Work with crime victim assistance specialists to assist the family.
 - 4. Accompany family members to any court proceedings related to the employee's death.
 - 5. After the conclusion of the trial, have Department investigators meet with the family to answer any questions.

4.8 LINE OF DUTY FUNERALS

Refer to M.O.P. Chapter 16.

4.9 POST FUNERAL FAMILY SUPPORT

- A. The grieving process has no definitive timetable. Therefore the Department must remain sensitive to the needs of the deceased employee's family long after the tragedy has occurred.
- B. Department employees, especially those who were close friends and co-workers of the deceased employee, are encouraged to keep in touch with the family. This is particularly true during holidays when survivors are most vulnerable.
- C. Survivors should continue to be made to feel that they are still part of the Department. They should be regularly invited to police activities.
- D. The Commissioner should observe the employee's date of death by sending a note to the family and/or by having flowers placed on the grave.

5.0 MONITORING SICK AND INJURED MEMBERS

5.1 POLICY

It is the policy of the Buffalo Police Department to closely monitor those members on sick leave as well as those members absent from duty as a result of a service connected injury/illness.

5.2 MEMBERS RESPONSIBILITIES

- A. Sworn members who are absent for fourteen consecutive days or more due to a service connected injury/illness, shall contact the Internal Affairs Division one time weekly between 0800 - 1200 hours, Monday through Thursday.
- B. For the first instance in which a member fails to contact IAD as required above, a written notice will be sent to the member citing his/her failure to make the required contact, reminding him/her of the requirement to contact IAD weekly, and warning him/her that a subsequent failure will result in disciplinary charges being preferred.

5.3 SUPERVISOR'S RESPONSIBILITIES - SWORN MEMBERS

- A. Supervisors and the Internal Affairs Division shall have concurrent jurisdiction in enforcing the Department's rules, regulations, policies and procedures involving the use of sick leave, particularly as they apply to the requirement that sworn members, while on sick leave, must remain in their place of confinement during each tour of duty for which the sworn member would otherwise have been scheduled to work. If a sworn member must be out of confinement due to sickness or injury (s)he must contact 851-5750.

- B. In those instances in which a Supervisor believes that a member is in any way abusing sick leave privileges or privileges associated with service connected injury/illness, the Supervisor shall prepare a report on an Intra-Departmental Memorandum and forward it to IAD through the chain of command. In cases in which immediate investigation is necessary, the Supervisor shall contact IAD, or if after office hours, the ***Duty Officer***, who shall contact IAD.

5.4 COMMANDING OFFICERS' RESPONSIBILITIES

- A. Commanding Officers shall closely monitor the amount of time each employee under his/her command is on sick leave or is absent from duty due to a service connected injury/illness.
- B. When a Commanding Officer suspects that an employee under his/her command is using inordinate amounts of sick leave or that the employee is using sick leave in a manner which would make the Commanding Officer question the legitimacy of its use (e.g. immediately after payday, during and around holidays, when the member has exhausted all vacation and personal leave time, etc.) the Commanding Officer shall meet with the employee and instruct him/her concerning the proper use of sick leave. A report of such meeting shall be summarized on an Intra-Departmental Memorandum and forwarded through channels to IAD for filing. Cases of continued suspected abuse of sick leave by the member shall be forwarded to IAD for investigation.

5.5 INTERNAL AFFAIRS DIVISION RESPONSIBILITIES

- A. IAD shall maintain a list of employees who are currently on sick leave and employees who are currently absent due to a service connected injury/illness. They shall provide related statistical data that the Department deems beneficial.
- B. IAD shall conduct all investigations of suspected abuse of sick leave or abuse of leaves due to service connected injury/illness.
- C. IAD shall randomly check the place of confinement of sworn members during the hours when home confinement is required.
- D. IAD and/or the 1st D.P.C.'s Office shall expeditiously present to the Commissioner or his/her designee all reports concerning claims of service connected injury/illness so that the propriety of the claim can be determined (refer M.O.P. Chapter 13 above).
- E. IAD shall convey all necessary instructions to employees concerning sick leave and absences due to service connected injury/illness.
- F. IAD shall act as a liaison for the Department with ***the department's designated medical provider***.

5.6 ADMINISTRATION POLICE COMMISSIONER'S OFFICE

- A. The 1st D.P.C.'s Office shall record all E-Mail messages reporting and canceling sick leaves and absences due to service connected injury/illness.
- B. The 1st D.P.C.'s shall maintain complete, accurate and confidential files of all reports and records relating to sick leaves and leaves due to service connected injury/illness.
- C. Upon receipt of the reports by a member claiming a service connected injury/illness (refer M.O.P. Chapter 13 above), the 1st D.P.C.'s shall file with the New York State Comptroller within 90 days of the incident, the report required by Section 63 of the laws pertaining to the New York State Retirement System. The member claiming the service connected injury/illness shall be provided with a copy of the receipt which New York State forwards to the Department to acknowledge that the State has received form P-62.

NOTE:

No application for Accidental Disability Retirement shall be approved unless the Office of the State Comptroller is notified within ninety (90) days after the incident, setting forth:

- 1. the time and place where the incident occurred;
 - 2. the particulars thereof;
 - 3. the nature and extent of injuries;
 - 4. the alleged incapacity.
- D. All medical records shall be held in strict confidence by the Administration Deputy Commissioner's Office. Medical records shall not be released without written authorization of the Commissioner or his/her designee. Only the Commissioner, Deputy Commissioners, IAD personnel and employees assigned to the Administration Deputy Commissioner's Office shall have access to an employee's medical records.
- E. The 1st D.P.C.'s Office shall notify the Commanding Officer of any employee who's sick leave is about to expire. The Commanding Officer shall be responsible for forwarding this information to the individual employee.

6.0 LIGHT DUTY ASSIGNMENTS- SWORN MEMBERS

6.1 POLICY

It is the policy of the Buffalo Police Department to provide light duty assignments, if available, to sworn members of the Department who are restricted by physical illness/injury from performing the full range of their law enforcement related duties. Such light duty shall be consistent with the member's physical restrictions and shall be granted for a reasonable amount of time.

6.2 FITNESS FOR LIGHT DUTY

The Department's health care provider must certify that a sworn member is capable of performing light duty and shall specify those restrictions that apply to the sworn member's duties.

6.3 PLACEMENT IN LIGHT DUTY ASSIGNMENT

The Commissioner or his/her designee shall review the certification provided by the Department's health care provider and shall place the sworn member in an assignment that is consistent with the restrictions that apply to the member's duties. Sworn members placed in a light duty assignment shall be medically re-evaluated periodically to determine their fitness for return to full duty.

A. Hours of Work for Light/Limited Duty Assignments

Sworn members working light/limited duty as a result of a work related injury (IOD), and who are working less than a full shift and utilize sick leave, vacation time and personal leave time shall be charged only the actual hours assigned to light duty work (i.e. if assigned to work 0600-1100 hrs., and are IOD from 1100-1600 hrs., you would be charged for 5 hours of paid leave time.

This rule does NOT apply to sworn members that are working light duty as a result of a non-work related injury/illness.

6.4 OUTSIDE EMPLOYMENT RESTRICTIONS

No sworn member of the Department placed in a light duty assignment shall be allowed to work a second front job.

6.5 SERVICE CONNECTED INJURY/ILLNESS

A. If a sworn member of the Department is not eligible for or is not granted an accidental disability retirement allowance or retirement for disability incurred in the performance of duty allowance or similar accidental disability pension and is nevertheless, in the opinion of the Department's health care provider, unable to perform his/her regular duties as a result of such service connected injury/illness but is able, in their opinion, to perform specific types of limited police duty, payment of the full amount of regular salary or wages shall be discontinued with respect to such sworn member if (s)he shall refuse to perform such limited duty, (refer General Municipal Law 207-C,3).

B. In the event that a treating physician or the ***department's designated medical provider*** or a physician or surgeon recommended by ***department's designated medical provider*** certifies that the sworn member has recovered sufficiently and is able to perform light/limited duties, the member may be removed from IOD status and assigned to a light/limited duty assignment. If, however, the sworn member's private physician has submitted adequate documentation disputing such certification, the sworn member is entitled to a hearing before his/her return.

C. Sworn members placed in a light duty assignment must follow the procedures outlined in M.O.P. Chapter 13 above, if they are rendered incapable of performing their light duties due to a recurrence or aggravation of the prior service connected injury/illness.

7.0 PREGNANCY, CHILDBIRTH AND RELATED MEDICAL CONDITIONS

7.1 POLICY

It is the policy of the Buffalo Police Department to allow a member or employee who is pregnant to continue to work, with the permission of her physician. The pregnant member may choose to request a light duty assignment through the chain of command if so desired.

7.2 APPLICABILITY OF CHAPTER 13

All the procedures outlined in this Chapter concerning sick leave shall also apply in circumstances of pregnancy, childbirth and related medical conditions.

7.3 COMPLICATIONS DURING PREGNANCY

An employee may continue working during pregnancy unless medical or obstetrical complications arise. A statement from the attending physician concerning such complications shall be submitted to the Commissioner or his/her designee. **Refer to the M.O.P. Chapter 13, Section 6.3 “Placement in Light Duty Assignment” if there is a need for said assignment.**

7.4 USE OF SICK LEAVE

Employees may use their allotment of sick leave during pregnancy, childbirth and related medical conditions when they are unable to perform their duties or when continued work would unnecessarily jeopardize their health or the health of their unborn baby. Using sick leave will be based on the advice of the employee's private physician. Unless there are complications which are substantiated in writing by the employee's private physician, the general principle is that an employee may use their allotment of sick leave to report off duty four (4) weeks prior to delivery and four (4) weeks after delivery.

8.0 EMPLOYEE ASSISTANCE PROGRAM (EAP)

8.1 POLICY

The Department acknowledges that its employees are its most important asset. It recognizes that from time to time employees may be adversely affected by circumstances beyond their control. It is the policy of the Buffalo Police Department to have in place an employee assistance program to administer to the needs of its employees.

8.2 EMPLOYEE ASSISTANCE PROGRAM (EAP)

A. The Department utilizes the Employee Assistance Program to administer to the needs of Department employees. It is available to Department employees as well as their immediate family members to provide confidential assistance and referral in the areas

of mental health, stress related problems, family/marital problems, alcohol/substance abuse, financial/legal related issues, stress management and critical incident stress debriefing services.

- B. The role of EAP is to serve as a source of information and to refer the employee and his/her family to appropriate resources within the community. All professionals have been screened so that employees can be afforded the best possible care.

8.3 CONFIDENTIALITY

All calls and information shared by employees with EAP representatives is kept strictly confidential and cannot be released without the employee's written consent. An employee who voluntarily seeks assistance will not jeopardize his/her job security or promotional opportunities in any way.

8.4 ACCESSING EAP

Employees may request further information concerning EAP through the Police Academy or they can directly contact the EAP coordinator for information or confidential assistance at Palladian Health EAP, 2732 Transit Road, West Seneca, NY 14224, phone number 712-2777.

9.0 DRUG TESTING OF SWORN MEMBERS

Refer to separate drug testing manual.