



# **Personnel Rules and Regulations for Commissioned Police Officers**

\* These Police Department Personnel Rules and Regulations (PDPRRs) apply to “Police Officers,” which, for purposes of these rules and regulations are post-probationary, sworn and commissioned police department employees who are employed in regular, full-time positions and are a member of the City’s retirement fund. The terms “part-time,” “seasonal,” and “temporary” do not apply to Police Officers. The terms “Police Officer” and “employee” are used interchangeably in these PDPRRs.

## Preface

The Personnel Rules and Regulations for Commissioned Police Officers (referred to as the “PDPRRs” hereafter) of the City of Fort Worth ( “City”) are authorized under the City of Fort Worth Municipal Code, Chapter 2, Article V, entitled Human Resources. They are based upon the merit principles outlined in the article. These rules and regulations (also referred to as “PDPRRs,” “policy” or “policies” going forward in this document) do not confer legal rights to employees. They are established in good faith and are intended to comply with applicable federal, state and local statutes and be read in conjunction with any then applicable Meet and Confer Labor Agreement, the Fort Worth Civil Service Commission Rules, and the Police Department’s General Orders.

These PDPRRs do not apply to general employees including police trainees. These PDPRRs additionally do not apply to Police Officers until they complete their initial probationary period.

Many of the Rules and Regulations that apply to General Employees may not be relevant or fully applicable to Police Officers based on State and Federal laws and regulations and labor agreements that apply only to Police Officers. Therefore these PDPRRs have been written to mirror the General Employee PRRs as much as possible, but to address those situations where deviations are necessary.

The City’s personnel policies DO NOT CONSTITUTE A CONTRACT. Any compensation and/or benefit policies explained in these regulations are subject to review at least annually by City Council and are subject to change at any time. If any labor agreement expires or is terminated, City Council reserves the right to implement any compensation and/or benefits that it considers appropriate at that time.

### **Mission, Values, and Vision**

The City of Fort Worth’s mission is “*Working together to build a strong community.*” To accomplish this mission, employees at the City of Fort Worth provide municipal services to over 800,000 residents. Each day, these employees are moving about the city, doing work that helps make Fort Worth a strong community and a great place to live. There are six values that guide our employees as they go about this work. They are:

- *Exceptional Customer Experience*
- *Accountability*
- *Ethical Behavior*
- *Diversity*
- *Mutual Respect*
- *Continuous Improvement*

As Fort Worth continues to grow and change, these principles help keep employees on point, providing the best service to citizens, businesses and fellow employees. City employees are guided by the City’s mission and values to work toward the vision that “***Fort Worth will be the most livable and best managed city in the country.***” The City’s mission, values, and vision serve as the foundation for information contained in the Personnel Rules and Regulations.

### **Chapter 143 of the Texas Local Government Code**

As allowed for in Texas Local Government Code (TLGC) Chapter 143, Subchapter A, the voters of the City of Fort Worth elected to be governed by the provisions of that chapter in terms of many of the conditions of employment of its sworn police and fire personnel. On issues where a then-applicable labor agreement or the Fort Worth Civil Service Commission Rules do not apply, Chapter 143 may provide guidance. Otherwise, these PDPRRs and the Police Department’s General Orders should be relied upon.

### **Chapters 141 and 142 of the Texas Local Government Code**

These statutes contain some rules about work hours and compensation for Police Officers in Texas. On issues in which a then-applicable labor agreement or Chapter 143 does not apply, these statutes may provide guidance.

Texas Commission on Law Enforcement (TCOLE), Chapter 1701 of the Texas Occupations Code.

TCOLE statutes, rules and regulations contain information that apply to Police Officers regarding licensing, qualifications, and documentation of termination of employment. Police Department General Orders (G.O.’s).

The G.O.’s contain detailed information, work rules, procedures, and directives about employment in the Police Department. The PDPRR’s are intended to be read in conjunction with the G.O.’s.

### **Meet and Confer Labor Agreement**

A contract entered into under the TLGC, Chapter 143, Subchapter I, *Fire Fighter and Police Officer Employment Matters in Certain Municipalities* preempts any contrary personnel rule or regulation herein, unless otherwise provided for in such contract. Because these labor agreements are typically negotiated on a four-year cycle and can change with time, any reference made to such a contract in these PDPRRs will refer to it as the “then-applicable labor agreement.” The current Meet and Confer Labor Agreement expires on September 30, 2020 and includes a one year evergreen period until September 30, 2021.

### **Fort Worth Fire Fighters’ and Police Officers’ Civil Service Commission**

Further under TLGC Chapter 143, the City of Fort Worth maintains a Civil Service Commission. In accordance with section 143.008, the Commission promulgates its own rules which can be found on the City's Human Resources website. These rules are controlling regarding many aspects of hiring, promotion, and discipline when not in conflict with any then-applicable labor agreement. Any reference made to the Fort Worth Fire Fighters' and Police Officers' Civil Service Commission Rules in these PDPRRs will refer to them as the "FW Civil Service Commission Rules."

### **Management Rights**

Except as provided for by State or Federal law or as expressly modified, delegated, or abridged by the provisions of any applicable Labor Agreement or City of Fort Worth Fire Fighters' and Police Officers' Civil Service Commission Rules, Department management with input from the City Council and the City Manager's Office, shall retain the sole, exclusive, and vested right and prerogative to manage the Department and its workforce and assets in all respects, including, but not limited to: the right to hire, train, promote, demote, discipline, suspend, discharge, assign, transfer, retain, or lay off employees; the right to establish, eliminate, or modify the qualifications and minimum requirements for hiring, training, promotions, transfers, and job assignments; the right to establish, eliminate, classify, reclassify, or modify the number and types of positions and job classifications; the right to assign and direct the work of Officers, including the scheduling and assignment of duties, responsibilities, and hours of work; the right to establish, eliminate, or modify the methods, processes, means, and personnel by which operations are to be carried out; the right to establish, eliminate, modify, review, and enforce rules and standards governing job performance, personal conduct and appearance, uniforms and equipment, safety, training, education, attendance, discipline, and efficiency; the right to establish, abolish, or modify processes and procedures for investigating and reviewing Officer conduct and complaints relating to that conduct; and the right to determine the wages, hours of work, benefits, and working conditions of the Officers in the Department.

The exclusive rights and prerogatives of management not expressly mentioned or described in this statement of management rights or Personnel Rules and Regulations for Commissioned Police Officers are nevertheless retained by the City and are not to be interpreted as having been diminished, waived, or ceded in any respect. If the then-applicable labor agreement or these Personnel Rules and Regulations for Commissioned Police Officers do not, by their terms, expressly and specifically restrict, modify, or abridge a particular right or prerogative of management, then the City retains such right or prerogative of management, solely and exclusively subject to Federal, State or Local law. Moreover, the City's retained rights and prerogatives of management shall not be restricted, diminished, waived, or ceded by any purported past practice, purported condonation or ratification of prior acts of employees, or by prior arbitration decisions or civil service hearing decisions, unless otherwise provided for in any then-applicable labor agreement.

### **Amendments**

The City Manager, or his or her designee, with advice and assistance from the Human Resources Department, develops, adopts, and promulgates Personnel Rules and Regulations for all City employees who are, directly or indirectly, under the City Manager's supervision and control. From time to time amendments to the *Personnel Rules and Regulations for Commissioned Police Officers* are made in the interest of maintaining good and efficient business practices and to comply with changes in federal, state or local statutes.

Amendments are made according to the procedures in Chapter 2, Article V, Section 9 of the municipal code and as allowed by and under the conditions set forth in any then-applicable labor agreement and the FW Civil Service Commission Rules.

### **Department Rules and Regulations**

The Police Department, with approval of the Police Chief, may establish additional rules and regulations for the Police Department that are not specifically addressed in these PDPRRs. The Police Chief may generally approve departmental policies (General Orders) that are more restrictive or controlling than policies in these PDPRRs so long as they do not conflict with federal, state or local law, or any then-applicable labor agreement. The Human Resources Department Director may require a department policy to be changed or retracted if considered to inappropriately conflict with these PDPRRs.

### **Waivers**

Application of a specific provision of the PDPRRs may only be waived by the Human Resources Department Director, or his or her authorized designee. To obtain a waiver, a written request must be sent from the Police Chief to the Human Resources Director. The request should identify the applicable rule or regulation to be waived and the justification for the waiver. The Human Resources Director or designee reviews each waiver request on a case-by-case basis and approves or denies the request.

### **Clarifications**

In situations not covered specifically by the PDPRRs, employees of the Human Resources Department authorized by the Human Resources Director may provide an interpretation or clarification based on the perceived intent of the *Rules and Regulations*. Individuals with questions or requests for clarifications must verify that the contacted employee is authorized to provide an official response. The Human Resources Department also publishes HR Advisories on various topics. These HR Advisories are intended to assist with the clarification or interpretation of Personnel Rules & Regulations, provide guidelines on procedures, provide additional detail or information on a Rule, describe best practices or serve as a teaching resource.

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# 1. Hiring

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## 1.1 Purpose and Introduction

The purpose of this chapter is to describe how the City of Fort Worth provides employment opportunities for those persons who are interested in and qualified to work for the City in commissioned police officers positions. The City seeks to hire and retain competent employees who are honest, technically competent, show respect for fellow members of the City team, and who recognize the responsibility that public employees have to our customers. Even though the PDPRRs do not apply to police recruits or trainees, these policies are included so that supervisors and other police employees can carry out the requirements of this chapter.

The City's hiring and employment practices for Police Officers are primarily determined by:

- (1) state statute;
  - (a) Texas Local Government Code Chapter 143 (also called "Chapter 143" or "civil service law");
  - (b) Texas Local Government Code Chapters 141 and 142;
  - (c) Texas Commission on Law Enforcement, Tex. Occ. Code, Chapter 1701 (also called "TCOLE");
- (2) contract (an agreement between the City and the then-existing bargaining entity for Police Officers, sometimes also called the "Meet and Confer Agreement" or "MCA");
- (3) the Local Rules of the Fort Worth Firefighters' and Police Officers' Civil Service Commission (also called "the Commission" or "the Civil Service Commission"); and
- (4) City policy:
  - (a) The Police Department Personnel Rules and Regulations (this document); and
  - (b) The Police Department General Orders.

Police Officers are sometimes referred to as "civil service employees" because their employment is subject to the civil service rules of Chapter 143.

For questions about this chapter, please call the Fort Worth Police Department Recruitment Unit or the Talent Acquisition Manager in the Human Resources Department.



## **1.2 General Hiring Guidelines**

All applicants for Police Officer positions must take a written entrance examination that is administered by the City in accordance with Chapter 143 and the then-applicable labor agreement.

The City posts entrance examination notices for beginning positions in the Police Department on the City's official website in accordance with the requirements of Chapter 143 Job applications and other official paper or electronic forms that are used in the selection process are provided by the Human Resource Department and on the Internet. The City uses valid, job-related selection procedures and methods to hire employees on the basis of their qualifications and suitability for employment. Employment decisions are based on job-related factors, including the candidate's suitability and qualifications as those traits are related to the essential functions of the job.

Any then-applicable labor agreement and the Civil Service Commission Local Rules may contain additional requirements related to the hiring of police trainees and lateral entry officers, and the reappointment of former officers, including requirements concerning the posting of vacancy announcements. Those additional sources provide guidance regarding the testing and selection of candidates to be Police Officers.

### **1.2.1 Pre-Employment Process**

The Police Department will work cooperatively with the Human Resources Department during the application process to ensure that applicants are treated equitably regardless of race, color, national origin, sex, pregnancy, transgender, gender identity, gender expression, religious affiliation, political affiliation or belief, age (over 40), sexual orientation, genetic information, veteran status, and disability status. Please see further information in the *Equal Opportunity* section below.

### **1.2.2 Applicant Evaluation**

The criteria used for applicant evaluation, and the minimum standards for hiring entry-level, lateral entry, and reappointed Police Officers are outlined in the then-applicable labor agreement and the Civil Service Commission Local Rules.

### **1.2.3 Applicant Packet Documentation**

The Police Department shall maintain a complete file for all applicants for civil service positions to comply with any criteria outlined in the then-applicable labor agreement and the Civil Service Commission Local Rules.

## **1.2.4 Conditional Offer of Employment**

The Police Department may submit a conditional offer of employment to applicants for a recruit position who have met the established criteria and requirements outlined in the then-applicable labor agreement the Civil Service Commission Local Rules, Texas TCOLE, and Chapter 143. These are the authorities explained in Section 1.1.

## **1.3 Equal Opportunity**

City recruitment is inclusive so that all individuals have an equal opportunity for employment. All artificial, arbitrary, and non-job-related barriers to employment such as race, color, national origin, sex, pregnancy, transgender, gender identity, gender expression, religious affiliation, political affiliation or belief, age (over 40), sexual orientation, genetic information, veteran status, and disability status (including contagious diseases such as tuberculosis in the non-contagious state and HIV) are eliminated to ensure equal access to employment. This policy is practiced in all personnel actions and conditions of employment, including, but not limited to: recruitment, employment, training, promotion, transfer, demotion, termination, layoff, discipline, compensation, and benefits.

## **1.4 Employment Verification**

The information that job candidates provide during the employment application process is subject to verification. Individuals who falsify or omit significant information may be disqualified from consideration for the position or, if already hired, they can be disciplined, up to and including indefinite suspension, which is equivalent to dismissal for civil service employees.

### **1.4.1 Release of Employment Information**

Individuals should not release information about current or former employees without proper authorization. Information given in response to requests from outside employers or businesses to verify employment shall generally be limited to a Police Officer's hire date, job title and salary range. External requests for employment information should be directed to the City's automated Job Verification system unless a release signed by the Police Officer has been provided.

In those instances where a Police Officer has signed a release, individuals should consult with the internal affairs unit or the legal department to determine what specific information may be released.

Supervisors who provide reference information must provide only objective information (not opinions) in writing that can be supported by documentation and avoid allowing personal perceptions of the individual to be communicated.

### **1.4.2 Verification of Education/Certification/License Qualifications**

It is the applicant's responsibility to submit required documents such as high school diplomas or GED certificates, military records, residency records, college degrees, transcripts, certifications and licenses to the City for review by any stated deadlines. Failure by the applicant to comply with requests for documents may delay or terminate the hiring process.

Failure to submit verification documents will not, however, disqualify an applicant from consideration for employment unless the documents are required for verification of minimum hiring standards as established in the FW Civil Service Commission Rules or by state or federal law (for instance, I-9 forms regarding immigration and citizenship status). However, failure to provide the documents by the stated deadlines may prevent the timely addition of points that would otherwise be awardable under the Civil Service Commission Rules or any then-applicable labor agreement.

The Police Chief or designee is responsible for ensuring that required qualification verification documents are submitted and sent to the Human Resources Department's Records Section. Failure to submit the required verification documents may affect the hiring status of the applicant.

The Police Department is responsible for ensuring that candidates submit the documents that are required for a Police Officer's City personnel file and that the documents are then provided to the Human Resources Department's Records Division.

## **1.5 Minimum and Maximum Employment Age**

Police Trainee candidates must currently be 20 years of age and cannot yet be 45 years of age on the date of the entry-level exam. This requirement may be changed pursuant to any then-applicable labor agreement, the FW Civil Service Commission Rules, or the TLGC, Chapter 143. TCOLE rules may have additional minimum age requirements that individuals must have prior to completing the academy and receiving a commission.

## **1.6 Eligibility to Work in the USA**

Pursuant to the FW Civil Service Commission Rules, individuals who are seeking employment with the City as a Police Trainee must provide documentation showing that they are a citizen of the United States.

New hires must complete Form I-9, *Employment Eligibility Verification*, during orientation. Form I-9 requires that original documents establishing identity and employment eligibility to be shown at the time employees complete their new hire paperwork. Form I-9 lists acceptable documents for establishing eligibility to work in the United States on the back of the form. Federal law requires that new hires who fail to provide acceptable documents at orientation or within three days of their hire date cannot be employed or must be terminated if hired.

## **1.7 Driver's License Verification and Record Check For New Hires and Current Employees**

Police Officers must possess an appropriate and valid Texas Driver's License. Entry level applicants must also possess a suitable driving record that meets the minimum hiring standards outlined in the FW Civil Service Commission Rules. TCOLE additionally sets standards associated with driving records, as can be found in the Texas Administrative Code.

Periodic driver's record checks shall be conducted to verify Police Officers' compliance with this policy.

Police Officers on the Risk Management Division list whose driver's license is invalid (i.e., has expired or been revoked, suspended, or withdrawn for any reason) shall have their City driving privileges suspended and shall not be allowed to drive City vehicles or their personal vehicles on City business or to drive onto City premises. Upon receipt of notification from the Risk Management Division that an employee's City driving privileges have been suspended, the department head or designee shall inform the employee in writing of the suspension of driving privileges and of procedures to follow in order to clear his/her driving record with the Texas Department of Public Safety (DPS) and to subsequently have their driving privileges reinstated by the City. Departments may contact the Risk Management Division for assistance with drafting such a communication. The affected Police Officer's City driving privileges shall be suspended upon his/her receipt of the notification from the department head or designee. The notification should be made via in-person delivery with a signed employee acknowledgement or via certified mail.

For a Police Officer's City driving privileges to be reinstated, the steps below must be followed:

1. The Police Officer should contact the DPS Driver Improvement Office at (512) 424-2600 to determine their driving status. DPS will disclose the employee's driving status and explain what they must do to clear it.
2. The Police Officer must obtain from DPS a copy of their DPS Status Record (Type 1 or higher) and provide the copy to Internal Affairs. Internal Affairs shall provide a copy to the department's Human Resources Coordinator. A copy of the DPS Status Record (Type 1) can be obtained for a minimal fee at the DPS website [www.texas.gov/driver](http://www.texas.gov/driver). The Police Officer is responsible for paying this fee. The DPS Status Record (Type 1 or higher) is the only acceptable verification document.
3. Verbal assurances and/or explanations from the Police Officer will not be accepted. Driver's licenses in the possession of those on the DPS suspension/revocation list shall be considered invalid until receipt of the DPS Status Record indicating the driving record has been cleared.
4. The Police Officer will be allotted ten (10) working days from the date of their notification to complete the verification process.

5. The department Human Resources Coordinator shall forward a copy of the DPS Status Record verification received from the Police Officer to the Risk Management Division.
6. The Risk Management Division will review and approve the DPS Status Record verification and will send an e-mail reinstating the Police Officer.
7. The Risk Management Division will coordinate approved DPS Status Record verification records with the HRIS/Records Division.

## **1.8 Criminal Records Check**

The Police Department is responsible for conducting criminal background checks on Police Officer applicants to ensure that applicants possess a suitable criminal history as outlined in the FW Civil Service Commission Rules. An applicant should be given the opportunity to respond to discrepancies on the criminal records check before they are removed from the hiring process.

In accordance with Chapters 5 and 6 of the FW Civil Service Commission Rules, the intentional falsification or omission of information during the application and/or hiring process will result in removal from consideration for the position or, if already hired, may lead to termination or indefinite suspension. State law, including TLGC Chapter 143, TCOLE requirements in the Texas Administrative Code, the FW Civil Service Commission Rules, and any then-applicable labor agreement may include prohibitions on the types of criminal history an applicant may have and still be considered for hire.

## **1.9 Employment Testing**

Any then-applicable labor agreement, the FW Civil Service Commission Rules, TLGC Chapter 143 and the Texas Administrative Code, Title 37, part 7, may contain requirements for testing applicants for Police Officer and police trainee jobs.

The selection of a candidate to be a police officer shall be based primarily upon the candidate's suitability to serve as a police officer, as determined by the Police Chief or Designee. All testing and selection procedures shall be designed and intended to identify the most suitable candidates for selection from those who apply and to exclude those candidates who are deemed not likely to possess the characteristics and abilities to be successful in the performance of police work.

## **1.10 Hiring Salary**

Compensation for civil service position are determined by either any then-applicable labor agreement or the City's current salary schedule approved by the City Council during the annual budget implementation.

## **1.11 New Employee Orientation**

All newly hired police trainees, lateral entry, reappointed and Police Officers reinstated after a successful appeal of an indefinite suspension must attend a City orientation session (also called New Employee Orientation Program or NEOP) before starting work at their assigned location.

Basic employee policies are discussed at the orientation. Employee benefits, including but not limited to retirement, leave privileges, and group health benefits are covered. The employee's eligibility to work in the USA is checked. (See [Eligibility to Work in the USA](#) above for further information.)

An authorized member of the Police Department must notify employees where to report for work after the orientation.

## **1.12 Direct Deposit or Alternative Payment Method**

Employees set up a payment method when completing new-hire paperwork, and they will be allowed to change the payment method by contacting the Payroll Division. The vast majority of City employees are paid by directly depositing funds into their individual bank accounts. For employees who do not have bank accounts, the Payroll Division will assist them in setting up an alternative method of payment, such as a debit card or pay card. Debit cards or pay cards sometimes incur transaction fees, and the City is not responsible for those fees.

## **1.13 Reemployment**

Rules governing the reemployment/reappointment of Police Officers after resignation may be found in the FW Civil Service Commission Rules, any then-applicable labor agreement, and the department General Orders.

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# 2. Compensation and Personnel Actions

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## 2.1 Purpose and Introduction

The purpose of this chapter is to ensure the City's compliance with the Fair Labor Standards Act (FLSA), Texas Local Government Code Chapters 141, 142, and 143, and any then-applicable labor agreement; to demonstrate efforts to attract and retain qualified candidates and employees; to provide a level of compensation that is equitable and will motivate employees to do their best work; and to communicate the City's basic compensation and personnel action procedures.

It is the policy of the City of Fort Worth to accurately compensate Police Officers in compliance with all applicable state and federal laws. To ensure that Police Officers are properly paid for all time worked and so that no improper deductions are made, Police Officers must correctly report all work time and review their pay advice to identify any errors.

Police Officer pay is established in the Salary Schedules approved by the City Council during the annual budget implementation or the then-applicable labor agreement. Personnel actions are changes to a Police Officer's status or pay. Personnel actions are implemented using an electronic Personnel Action Request (ePAR) form sent by departments to the Human Resources Information System (HRIS)/Records Division of the Human Resources Department. See the HR Advisory: *Personnel Action Requests* for more information regarding PARs.

Some of the sections in this chapter are specific to either "exempt" or "nonexempt" Police Officers. These designations relate to application of the Fair Labor Standards Act to the relevant employee's position/pay. Exempt employees are exempt from the overtime pay requirements of the FLSA. Exempt employees are paid the same weekly salary regardless of the number of hours worked. Non-exempt employees are by the hour and are paid overtime pay when they work more than 40 hours in a work week. In order to determine whether you are working in an exempt or nonexempt position, contact your Human Resources Coordinator in the department or refer to your status in PeopleSoft.

The City's personnel policies, including the compensation policies in Chapter 2, DO NOT CONSTITUTE A CONTRACT. Any compensation and/or benefit policies explained in these regulations are subject to review at least annually by City Council and are subject to change at any time. If any labor agreement expires or is terminated, City Council reserves the right to implement any compensation and/or benefits that it considers appropriate at that time.

Questions regarding this chapter should be directed to the Human Resources Classification and Compensation Manager.

## 2.2 Fair Labor Standards Act (FLSA)

This federal law establishes "standards" for minimum wages, maximum hours, overtime pay, record keeping and child labor. The overtime pay requirements are the most relevant to Police Officers' employment. Employees who are entitled to overtime must be paid time and one half their regular rate of pay for every hour worked over 40 hours in a work week. It is important for

Police Officers to accurately report their work hours, and for supervisors and other employees to keep records of the hours worked to make sure overtime is paid correctly. The FLSA is administered by the Wage and Hour Division of the United States Department of Labor, (USDOL or DOL). All employees at every level in the City are responsible for compliance with the FLSA, as amended. The Human Resources Department is responsible for the administration and interpretation of the FLSA, with input from the Legal Department. These responsibilities include: determining the existence of an employer-employee relationship; determining an employee's exempt or non-exempt status under the FLSA interpreting and applying minimum wage, work time, coded hours, overtime, work schedules, special residency agreements, and other FLSA provisions such as child labor standards.

The Human Resources and Law Departments are responsible for negotiations and serve as the liaison with the Wage and Hour Division of the U.S. Department of Labor, on FLSA matters affecting employees.

The Police Chief or designee is responsible for ensuring that Police Officers adhere to and comply with established work schedules. Police Officers must obtain proper authorization prior to working outside their established work schedules. Police Officers who fail to obtain authorization to perform work that is in addition to their established work schedules may be disciplined for failure to obtain authorization, but must nevertheless be compensated for all the time they worked.

Work time (hours worked) must be recorded exactly as it is worked by both exempt and non-exempt employees. The dates worked and the number of hours recorded as being worked each day must accurately reflect what actually occurred. Police Officers who fail to accurately record all time worked or who falsify time records are subject to disciplinary action, up to and including indefinite suspension.

The City operates in accordance with its compensation policy and in compliance with the FLSA, as amended. All Police Officers are encouraged to ask questions about their status as exempt or nonexempt Police Officers and rights under the FLSA. Questions should be directed to the Police Officers' departmental staff person(s) who handles payroll matters. The Human Resources Department Classification and Compensation Manager may also be consulted on such matters.

The FLSA prohibits retaliation against a Police Officer for filing a complaint, cooperating in an investigation and/or initiating any proceeding under or related to the FLSA.

## **2.3 Non-Exempt Officers Step Pay Plan**

Police Officers are compensated using a negotiated Step Plan found in the then-applicable labor agreement. Movement from step-to-step is based upon the timeframes established in the then-applicable labor agreement. If there is no labor agreement in place, then individuals should consult the City salary schedule most recently adopted by the City Council as part of the annual budgetary implementation process.



The base pay rate for new Police Officer candidates (Police Trainee) is at the entry level step for the Police Trainee Classification. The base pay rate for lateral entry and reappointed Police Officers is determined by the then-applicable labor agreement, or, if there is no labor agreement, according to the salary schedule most recently adopted by the City Council as part of the annual budgetary implementation process.

### **2.3.1 Promotional Pay**

The base pay rate after a promotion is controlled by either the then-applicable labor agreement or the City's salary schedule most recently adopted by the City Council as part of the annual budgetary implementation process.

### **2.3.2 Pay Rate Following Lateral Transfer**

A Police Officer's base pay rate does not change on the basis of a lateral transfer within the department. Lateral transfers may result, though, in assignment to a position or shift which warrants shift differential pay, assignment pay or some other sort of special pay.

### **2.3.3 Pay Rate Following Demotion**

Demotions may occur on a voluntary or involuntary basis, pursuant to terms in the TLGC Chapter 143 or any then-applicable labor agreement. The pay rate after a demotion is to a step in the lesser rank based on the Officer's service time as a Commissioned Fort Worth Police Officer unless otherwise dictated by the Police Chief, agreed to by the Police Officer, ordered by the Civil Service Commission or Hearing Officer in an appeal decision, or called for in any then-applicable labor agreement.

### **2.3.4 Pay Rate Following Reemployment**

Starting base pay for lateral entry and rehired/reappointed Police Officers is set either according to any then-applicable labor agreement, or the City's salary schedule most recently adopted by the City Council as part of the annual budgetary implementation process.

## **2.4 Exempt and Appointed Officers Pay Plan**

### **2.4.1 FLSA Classification**

Assistant Chiefs, Deputy Chiefs, Commanders, and Police Captains are classified as "exempt" under the FLSA. Provisions of any then-applicable labor agreement may dictate that Police Captains be treated similarly to non-exempt Police Officers for purposes of overtime and compensatory time accrual.

## **2.4.2 Appointment Resulting in Promotion**

Pay for Police Officers who are appointed to non-tested positions (also called “appointed positions”) by the Police Chief is controlled by any-then applicable labor agreement, the executive pay plan, or the current salary schedule adopted by the City Council and these PDPRRs.

Generally, the pay rate for Police Officers appointed to the ranks of Assistant Chief, Deputy Chief and Commander is at the entry level of the first quintile of the Appointed Police Officer’s job classification. The Police Chief may appoint a Police Officer to an appointed position at a higher rate up to the maximum rate for the second quintile, based on qualifications beyond the minimum qualifications listed in the job description. If the appointed Police Officer is already earning a salary that is in the second quintile at the time of his/her appointment, the Police Chief can increase the salary up to 10%.

The Police Chief must conduct an equity evaluation of the salaries of similarly-situated Police Officers before compensating an appointed Police Officer at a salary rate higher than the entry rate.

## **2.4.3 Pay Rate after Demotion of Appointed Officers**

Information related to demotions of appointed Police Officers may be found in any then-applicable labor agreement, and is also addressed in TLGC, Chapter 143 and the FW Civil Service Commission Rules. The pay rate after a demotion from an appointed position is to a step in the lesser rank based on the Officer’s service time as a Commissioned Fort Worth Police Officer unless otherwise dictated by the Police Chief, agreed to by the Police Officer, ordered by the Civil Service Commission or Hearing Officer in an appeal decision, or called for in any then-applicable labor agreement.

## **2.4.4 Reemployment of Exempt Officers**

Former Police Officers who voluntarily resigned may be reappointed to the Police Department at the classification of Officer at the discretion of the Police Chief. The decision by the Police Chief regarding reappointment shall be final and shall be in compliance with the City’s rules about equal opportunity employment.

Reemployment requirements and rates of pay following reemployment may be found in either the FW Civil Service Commission Rules or any then-applicable labor agreement.

## **2.5 Exceptions to General Guidelines For Employee Pay**

With the approval of the Human Resources Director, performance pay, merit pay, the pay for a promotion or any other type of pay increase may be less than the recommended standard pay increase for those types of changes. Factors such as internal pay equity, budget issues, work performance, minor changes in the work performed, advertised salary amount or other valid reasons may justify less than normal or no pay increase for a Police Officer. This provision is generally applicable to any of the appointed positions and does not apply to any of the tested job classifications.

## **2.6 Travel Time**

Commute time between a Police Officer's home and worksite is not compensable unless the Officer is performing work during the commute. If a Police Officer is allowed the privilege of driving a City vehicle home, to an off-site parking facility, or other location along the Officer's reasonable commute route, the time spent driving the City vehicle is commute time and is not compensable. If, however, a Police Officer is required as part of his or her job duties to park a City vehicle at a remote parking facility, the time spent driving the vehicle between a remote parking facility and the Officer's worksite is compensable. A remote parking facility is a City facility or other approved location at which the Police Officer is directed to park a City vehicle due to limitations at the primary site or for the operational convenience of the City. Selection of a remote parking facility is made without regard to the convenience of the facility.

Time spent traveling between worksites as part of a Police Officer's regular work assignments is normal work time and is compensable. Time spent traveling to and from out-of-town training or work-related meetings is compensable if it occurs during the Police Officer's regularly-scheduled work hours. Travel time that occurs outside of a Police Officer's regularly-scheduled work hours may or may not be compensable, depending on whether or not the Officer is performing work while traveling. If the Officer is, for instance, reviewing documents related to his or her job while traveling, the time is compensable. If the Police Officer is driving, the time is compensable. If the Police Officer is merely riding in a car or on a plane, and is not engaged in work for the City, the time is not compensable.

When a Police Officer has the option of flying or driving and chooses to drive, based on the Officer's preference rather than cost or other considerations, compensation will only be for the amount of time that would have been spent flying, including the time spent driving to and from the airport, parking, and checking baggage, and the time elapsing between the check-in deadline and actual boarding.

## **2.7 Compensation for Training Time**

Generally, hours that Police Officers spend in training are compensated as hours worked if the training is for the benefit of the employer (examples of such include: enhancing an employee's work-related skills; training on a new work-related computer system or software; attending a conference for professional development, etc.). Training that occurs during the Officer's regular work hours is compensable.

However, attendance outside of regular working hours at specialized or follow-up training that is required by law for certification of the employee's professional or occupational credentials does not necessarily constitute compensable hours of work. This is true even if the City pays for the training. Furthermore, training time is not compensable when the following factors are all met:

- Attendance is outside of the employees regular working hours,
- Attendance is voluntary,
- The program, lecture or meeting is not directly related to the employee's job, and
- The Police Officer does not perform any productive work for the City during such attendance.

It is important to note that attendance is not considered to be "voluntary" if it is required by the employer or the Police Officer is led to believe that the employee's present working conditions or the continuance of his or her employment would be adversely affected by nonattendance.

The Police Department, depending upon their particular circumstances, may choose to compensate Police Officers for travel or training time, even if they are not legally required to do so. Please contact the Human Resources Classification and Compensation Manager with questions regarding whether a Police Officer's training time is compensable.

## **2.8 Overtime Pay and Compensatory Time For Nonexempt Officers**

Nonexempt Police Officers are eligible to receive one and one-half times their regular hourly rate in overtime pay or compensatory time credited at the rate of one and one-half times for hours worked over 40 in a work week. The Police Officer has the option prior to accepting the work assignment to refuse compensatory time off and elect to be paid overtime pay.

Nonexempt Police Officers may not accrue more than 240 hours of compensatory time. If a nonexempt Police Officer works overtime hours that cause them to exceed the 240 hour compensatory time limit, all hours over 240 hours must be paid as overtime at the rate of one-and-one-half times the Police Officer's regular rate of pay. For example, if a nonexempt Police Officer works 44 hours in a week, four of those hours are "overtime" hours. If these hours are to be compensated with compensatory time, six hours would be added to the Police Officer's compensatory leave balance.

If the 240-hour limit is exceeded by the additional compensatory time, all compensatory time hours over 240 hours are paid at the Police Officer's straight time rate (the four overtime hours have already been converted to six hours of compensatory time).

Generally, leave time used does not count as hours worked for the basis of calculating overtime eligibility. An exception to this rule is holiday leave and personal holiday leave which counts as hours worked. Only those hours actually worked (or treated under City policy or a then-applicable

labor agreement as worked) in excess of 40 hours are compensated at the one-and-one-half overtime rate (either in pay or compensatory time).

Nonexempt Police Officers whose employment with the City is terminated for any reason are paid for all accrued compensatory time.

### **2.8.1 Exempt Officers Overtime Pay or Compensatory Time**

Exempt Police Officers earn compensatory time for hours worked that are in excess of 40 in a workweek. Compensatory time for exempt Police Officers is on a straight-time or one-for-one basis.

Exempt Police Officers may not accrue more than 240 hours of compensatory time. Exempt Police Officers are paid for unused, accrued compensatory time, subject to the 240-hour limit, when their employment with the City ends.

### **2.8.2 Promotions and Demotions and Paying Out Compensatory Time**

If a nonexempt Police Officer moves to an appointed Police Officer position, any unused compensatory time accumulated while the Police Officer was nonexempt will not be paid out at the nonexempt rate at the time of the change in position move.

### **2.8.3 Non-Exempt Officers' Use of Compensatory Time to Control Overtime Costs**

As a governmental entity, the City can use compensatory time by a governmental employer to control overtime cost by allowing Police Officers to earn compensatory time during heavy work periods and then to use the compensatory time when the workload permits it. State law allows a police officer to use compensatory time only when both the police officer and the City agree the time may be used.

A supervisor may request a Police Officer to:

- Use accrued compensatory time, when appropriate, to reduce future overtime costs.
- Use compensatory time to be off for either partial or full days.
- Use compensatory time instead of vacation leave when requesting time off work.

If a Police Officer has an annual vacation use or lose requirement and already used the required number of vacation leave hours in a year to avoid losing vacation leave, asking the Police Officer to use compensatory time rather than vacation leave is appropriate.

### **2.8.4 Overtime Pay, State and Federal Grants, and Contracts**

For state and federal grants and contracts intended to supplement the City's overtime resources, the City must first meet its 40-hour obligation to the Police Officer by paying regular pay and leave time without replacing that obligation with the applicable grant funds or contract. If overtime is accrued after that, the pay rate is time-and-a-half for hours worked over 40, regardless of funding source. This is the only instance where a Police Officer can actually work less than 40 hours in a workweek and still earn overtime in the same week, though it may be paid at the straight-time rate. For example, if a Police Officer works 32 hours of their regularly assigned shift, but uses sick leave for the remaining eight (which does not count for purposes of calculating overtime as "Hours Worked"), plus works 12 hours on a grant detail, the Police Officer receives 32 hours of regular pay, eight hours of sick pay (and the Police Officer's sick leave balance would be reduced by eight hours) plus eight hours of straight-time overtime and four hours of regular overtime. The eight hours of straight-time overtime and four hours of regular overtime would be funded from the applicable grant or contract.

## **2.9 Special and Premium Pays**

### **2.9.1 Nonexempt Officer Holiday Pay, Holiday Premium Pay, and Holiday Leave Accrual**

Nonexempt Police Officers who observe a paid holiday (do not work) are paid for up to ten hours on the holiday depending on their regular work schedule. The holiday pay hours are treated as hours worked for the purpose of calculating overtime and are paid at the Police Officer's normal rate of pay.

Nonexempt Police Officer who work on a holiday receive holiday pay for up to ten hours (depending on the authorized position in the budget), or may elect to accrue up to ten hours of holiday leave instead of receiving holiday pay for the same number of hours. Additionally, a non-exempt Police Officer who works on a holiday will receive holiday premium pay for all hours actually worked on that holiday at one and one-half times their regular rate of pay. Holiday premium pay does not count as time worked.

Work hours paid as holiday premium pay will not count as hours worked for the purpose of calculating eligibility for overtime during the workweek that includes the holiday.

Additional terms and conditions for Holiday Pay and specific examples for a Police Officer who works on a holiday may be found in the then-applicable labor agreement.

### **2.9.2 Exempt Officer Holiday Pay, Holiday Premium Pay, and Holiday Leave Accrual**

Exempt Police Officers who observe a holiday are paid for up to ten hours on the holiday. These hours will count as hours worked for purposes of determining whether the exempt Police Officer is eligible to accrue compensatory time under the City's policies.

### **2.9.3 Other Rules affecting Holiday Pay, Holiday Premium Pay, and Holiday Leave Accrual**

In connection with holiday pay, holiday premium pay, and holiday leave accrual policies, the City recognizes holidays on both the actual calendar day of the holiday or the “observed” holiday. Holiday premium pay can only be earned for working on the holiday as assigned to the Police Officer’s job record (either actual or observed). Police Officers are assigned to the actual holiday calendar on New Year’s Day, Independence Day, Thanksgiving, the day after Thanksgiving, and Christmas Day. Police Officers are assigned to the observed calendar on Martin Luther King Day, Memorial Day, and Labor/ 9-11 Remembrance Day.

Police Officers may not use paid leave such as vacation, short-term sick/family, holiday, personal holiday or compensatory time on the holiday in order to accrue the holiday. Any leave scheduled on a holiday will not be deducted from a Police Officer’s leave balance. A Police Officer will receive holiday pay instead of using leave time.

When a Police Officer’s schedule includes a regular day off that falls on a holiday, the Police Officer will accrue holiday leave hours for use at a later date up to the number of daily work hours in their regular schedule. Police Officers whose last day of work/date of termination is the day before an observed holiday do not receive pay for the holiday. Police trainees, lateral entry, and reappointed Police Officers who begin employment on the day after a holiday do not receive pay for the holiday.

Unscheduled absences on the day before or after an observed holiday should be handled through the disciplinary process if there is a pattern of such absences or there is reason to believe that the unscheduled absence was intentional.

Holiday leave accrual is limited to 128 hours. Police Officers may exceed 128 hours during the calendar year. The limit is applied annually on January 1 and any hours exceeding 128 are forfeited. The maximum payment upon termination of employment is 128 hours.

### **2.9.4 Shift Differential Pay**

According to the currently-applicable labor agreement, shift differential is currently 6% of the base step pay and will be paid for time worked between the hours of 6:00 p.m. and 6:00 a.m. Shift differential will be paid for only the time worked between these hours regardless of a Police Officer’s assigned shift.

Shift differential will be paid on the actual hour(s) worked in the shift differential time period during the workweek when compensatory time is earned. Shift differential will be included in the calculation of the regular rate of pay.

Shift differential will not be paid for any leave time used, including holiday leave, personal holiday and compensatory time used. Shift differential is also not paid for working eligible hours on Grant Details (as distinguished from full-time grant-funded positions), Emergency Call Back, Court Time, DA Time, non-emergency call back time, or the ½ time premium component of Holiday Premium Pay.

Any then-applicable labor agreement should be consulted for additional rules and details regarding shift differential pay. In the absence of a labor agreement, TLGC chapter 143 and any ordinances adopted pursuant to that law, dictate the terms under which it will be paid.

### **2.9.5 Healthy Challenge Payout**

Healthy Challenge refers to the Employee/Retiree Wellness Program that rewards employees, retirees and surviving spouses for maintaining or improving their health during the year. By completing a member health assessment (MHA), a tobacco affidavit/program and the Physician Screening form, all benefit-eligible employees, retirees and surviving spouses will be eligible for the Wellness Award Payout Program.

Police Officers may earn up to \$250.00 wellness pay in a calendar year by completing the three requirements stated above.

To receive the wellness pay, an employee must be an active employee in the pay period that the pay is distributed. Police Officers who resign or are involuntarily terminated after establishing eligibility for wellness pay, but before the wellness pay is distributed, will not receive wellness pay. Notwithstanding the foregoing, if a Police Officer's employment ends because of layoff (due to a reduction in force or as part of Employment Options), disability retirement, normal retirement, or death before the wellness benefit is issued, the Police Officer or beneficiary will be eligible to receive any earned wellness pay.

The Healthy Challenge Payout is reviewed by City Council on an annual basis, and is subject to change and/or termination at any time.

### **2.9.6 Education/Certification Incentive Pay For Police Officers**

Pursuant to the current labor agreement, to provide incentive to Police Officers to enhance their professionalism through education or training, Eligible Police Officers who are in the bargaining unit may receive both education and certification incentive pay in addition to their normal pay. Police Officers must complete their initial probation to be eligible for Education



Incentive Pay. See the *Glossary* for definitions of “education” and “certification incentive pay.”

The requirements for certification established by the Texas Commission on Law Enforcement (TCOLE) are used as guidelines for education/certification pay. Pay is based on the number of college hours or a degree plus years of service or the level of certification plus years of service.

Education/certification payments are based upon the following criteria:

- Completion of basic or advanced courses at an accredited college or university.
- Attainment of higher level state certification.
- Semester hours on any college subjects earned as part of an approved degree plan from a four-year college or university are acceptable. College courses must be directly related to an approved degree plan or must be part of an approved degree to qualify for education incentive pay.
- Work experience semester hours are accepted for education payment only if they are part of an approved degree or an approved degree plan from a four-year college or university.
- Examination-type semester hours and correspondence course hours are acceptable for education payment only if they are part of an approved degree plan or an approved degree.
- Education reimbursement rules governing courses taken at colleges and universities outside of Tarrant County apply to the education incentive pay program. The only exception is any case where a Police Officer resides close to the school and the reimbursement was approved by the Human Resources Department.
- Repeat or duplicate courses are not accepted for credit towards education incentive pay, nor are duplicate training courses accepted for credit towards certification pay. Some basic courses taught on a more advanced level may be deemed acceptable after review by the Human Resources Department.
- Credit for courses held on the same day at the same time is granted for only one of the courses.

When a Police Officer qualifies for incentive pay, they must send the verifying transcripts and other pertinent documentation to the department Human Resources coordinator who is responsible for notifying the Human Resources Department of any changes in a Police Officer’s education or certification level. Proof of eligibility for education incentive pay

must be established by the Police Officer. The Police Officer must establish eligibility for incentive pay for courses or degrees completed by submitting official transcripts to the Human Resources Department. The documentation must be submitted when the Police Officer is eligible for education incentive pay.

Education/certification payments are included in first paycheck of each month, with appropriate retirement and tax deductions withheld. Education/certification payments start within one month after the Human Resources Department is notified of a Police Officer's qualification for such pay. In the event there is a time lapse between qualification and notification, there are no retroactive payments. The Education/Certification Pay Schedule for Police Officers is as follows:

- \$60.00 per month—Associate Degree  
\$180.00 per month – Bachelor's Degree  
\$240 per month -Master's Degree  
\$300 per month-Doctorate Degree or higher

And/Or

- \$30.00 per month – TCOLE intermediate certificate  
\$60.00 per month – TCOLE advanced certificate  
\$240.00 per month – TCOLE master peace officer certificate

In the event the labor agreement is terminated, the City will pay Educational Incentive Pay and Certification Incentive Pay in accordance with TLGC 143.044 and any rules adopted pursuant to that statute.

### **2.9.7 Police Officer Court Time**

Off-duty Police Officers attending Municipal Court, Tarrant County Criminal Court, Criminal District Court, Civil District Court, and Federal Court outside of their regular work hours regarding a job-related function shall receive a minimum of four (4) hours overtime pay and all time in court beyond the four (4) hour minimum shall be compensated by overtime pay for the actual time spent in court. However, if a Police Officer's scheduled court appearance begins 30 minutes or less prior to reporting for duty, or 30 minutes or less following the end of the tour of duty, the Police Officer shall be paid overtime for the actual time spent in court, and the officer will not be entitled to the 4-hour minimum.

On-duty Police Officers attending court who have not been dismissed at the end of their scheduled work shift shall be paid overtime for the amount of time spent in court beyond the end of their scheduled work shift. The officer will not be entitled to a 4-hour minimum.

Police Officers will not be compensated a minimum of two (2) hours DA time for meetings with the district attorney that occur outside of their scheduled work hours.

Off-Duty Police Officers will be compensated if they make an appearance as a witness where the City is a party in interest in a criminal suit, civil suit, or administrative proceeding, if the

appearance is required, made on time off, and made by the officer in the capacity of Police Officer.

### **2.9.8 Review and Evaluation of Incentive Plans and Court Time**

Investigations or audits of Police Department Incentive Plans and Court Time may be performed when deemed necessary by the Internal Audit Department, the Human Resources Director, or any other party designated by the City Manager.

### **2.9.9 Special Merit Increases**

Officers in non-tested appointed positions, currently Assistant Chiefs, Deputy Chiefs, and Commanders, may be eligible to receive a special merit increase. Special merit increases are a valuable tool available to reward or recognize a truly “exceptional” officer outside the pay-for-performance cycle. The purpose of a special merit increase is twofold:

- Retain valuable Police Officers.
- Recognize the long-term valuable contribution of a Police Officer.

A Special Merit Increase request must be submitted by the Police Chief to the Human Resources Director for consideration. The request should provide sufficient detail to allow for an objective assessment of the justification for the request. The long-term financial impact of a special merit increase must be considered in light of the accomplishments of the Police Officer. The financial reward of a special merit increase is substantial when compounded over time. The cost/benefit ratio of the special merit increase should be considered by the Police Department before making a request.

Alternatives with significantly less financial impact are:

- One-time special merit lump-sum award, discussed in the section titled “Incentive and Lump Sum Awards.”
- Prospective merit increase limited to a specific period of time.

If the Human Resources Director denies a request for merit pay, the Police Chief may request the Department’s Assistant City Manager to review the request and either approve or deny the request after receiving input from both the Police Chief and the Human Resources Director.

### **2.9.10 Equity Pay For Assistant Chiefs, Deputy Chiefs and Commanders**

With the approval of the Police Department’s Assistant City Manager, the Police Chief may request the Human Resources Director to evaluate the need for equity pay adjustments for Assistant Chiefs, Deputy Chiefs, and Commanders. The request for an equity pay evaluation must be based on department-wide operational needs and not on the perceived needs or fairness of individual Police Officers. The Police Chief has a responsibility to avoid creating equity issues, when possible, in the appointment, and the selection of Police Officers to appointed positions.

### **2.9.11 Acting Pay**

Provisions governing acting pay can be found in TLGC, Chapters 141 and 143, any then-applicable labor agreement, and the General Orders. In situations not covered by any then-applicable labor agreement, the Police Chief, Assistant Chief, Deputy Chief, or Commander, may designate a person from the next lower classification to temporarily fill a position in a higher classification. Positions shall be temporarily filled only when deemed necessary by the Police Chief or designee. Any person temporarily appointed to fill a vacant position shall be paid at the base rate specified for that higher position or in accordance with the terms and conditions of any then-applicable labor agreement.

### **2.9.12 Bilingual Skills Pay**

Police Officers whose job duties require the use of bilingual skills may be eligible for additional compensation. To be eligible for bilingual skills pay, Police Officers must take and pass a language proficiency test administered by the Human Resources Department. If a language proficiency test is not available through Human Resources, Police Officers must provide an appropriate certification from an accredited agency or institution to be eligible for bilingual skills pay.

Use of verbal skills only is compensated at \$100 per month. Use of writing skills is compensated at an additional \$25 per month for a total of \$125 per month. The availability of bilingual skills pay is based on the department's need for Police Officers with bilingual skills and the department's budget. Bilingual skills pay must be approved by the Police Chief or designee.

The Human Resources Department has a list of employees who receive bilingual skills pay. This list is available on the intranet (<http://www.cfwnet.org/HR/>). Upon request, Police Officers receiving bilingual pay are expected to assist other departments with translation. Refusal to assist may result in the loss of bilingual pay. Bilingual pay can be discontinued at any time at the discretion of the Police Chief or designee as long as the Police Officer no longer uses bilingual skills in the performance of their essential job functions.

### **2.9.13 Emergency Call Back Pay**

Police Officers who are called back to duty (excluding court appearance) for emergency situations during the Police Officer's off-duty hours shall report a minimum of four (4) hours overtime. An emergency is defined as an unexpected happening or event, or an unforeseen situation or crisis that calls for immediate action. Off-duty Police Officers shall not be called back to duty for emergency situations unless the call-back is specifically directed by a sergeant or above.

Police Officers placed on call for emergency call-back shall be provided a cellular telephone to facilitate contact. A Police Officer utilizing a cellular telephone shall not report work time if they are able to use their time effectively for their own purposes.

Both exempt and nonexempt Police Officers can earn emergency callback pay. Nonexempt Police Officers will be paid at one and one-half times their normal rate of pay or will accrue compensatory time at the rate of one and one-half times the hours worked. Exempt Police Officers are only eligible for compensatory time accrued at the rate of one hour per hour worked, provided that their compensatory time balance does not exceed the 240-hour maximum accrual allowed. All compensatory time earned by exempt employees which exceeds the 240-hour maximum accrual allowed is forfeited.

Off-duty Police Officers shall not be called back to duty for non-emergency situations unless the call-back is specifically directed by a sergeant or above. An officer responding to a non-emergency callback shall report a minimum of two (2) hours overtime. Examples of non-emergency call-back may include, but are not limited to, pre-trial meetings with the District Attorney's office, community meetings, or administrative meetings. Pre-trial meetings scheduled by court liaison officers or Assistant District Attorneys must be approved by the officer's supervisor prior to the meeting. Additional terms and conditions regarding emergency call-back may be found in the then-applicable labor agreement.

Lunch or other breaks are not considered to be work time for emergency callback hours. Emergency callback hours end when a Police Officer's regular shift hours begin. Police Officers on vacation should only be called back on duty in emergency circumstances.

A Police Officer receiving acting pay receives the acting pay rate when emergency callback time is worked. Police Officers are paid for emergency callback for all hours worked, with a minimum of four hours paid for each callback. In the event of multiple emergency callbacks, each must be greater than four hours from the beginning of the previous one to be eligible for another four-hour minimum. If an emergency callback occurs within four hours from the beginning of a previous one, the subsequent callback is considered a continuation of the previous one. Only time actually worked during emergency callback is included in the calculation of a weekly overtime rate.

Provisions regarding emergency call-back may be modified by the terms and conditions of a then-applicable labor agreement.

#### **2.9.14 On Call or Stand by Duty**

On call or standby duty is only compensable when a Police Officer is so restricted by such duty that the Police Officer does not have free use of his or her time. These factors are used to determine eligibility for on-call pay:

- Whether the Police Officer has a city or personal cell phone (thereby permitting mobility).

- The required response time as mandated by a supervisor after receiving a call.
- Whether the duty is absolutely mandated.
- Disciplinary consequences, if any, for failure to respond to a call.

The Police Chief or their designees are expected to establish on-call policies that are not so restrictive as to require compensation under the Fair Labor Standards Act or these guidelines.

### **2.9.15 Longevity Pay**

As authorized and permitted by TLGC, Chapter 141, a Police Officer is eligible for longevity pay after completion of one year of service following being commissioned as a Fort Worth Police Officer. For each full year of service, a Police Officer receives four dollars (\$4.00) a month in addition to their regular pay. A Police Officer can receive additional longevity pay for up to 25 years of service. For example, a Police Officer with five (5) years of service as a Police Officer will receive an additional twenty dollars (\$20.00) a month. A twenty-five (25) year Police Officer will receive an additional one hundred dollars (\$100.00) a month. One hundred dollars (\$100.00) a month is the maximum a Police Officer can receive in longevity pay. Longevity pay is calculated based on a Police Officer's adjusted commission date and interrupted service affects the amount of longevity pay received. Police Officers with interrupted service establish eligibility from the most recent date of employment.

## **2.10 Conditions of Pay**

### **2.10.1 Payroll Deductions**

Automatic payroll deductions can be made (with employee authorization) for legally-mandated deductions and those associated with City-sponsored programs. Automatic payroll deductions are also available to pay membership dues for Police Officer organizations and associations and for other City-offered services.

See HR Advisory: *Payroll Deductions* for guidelines and approval requirements for payroll deductions.

### **2.10.2 Recovery of Inaccurate Pay or Benefits**

It is the Police Officer's responsibility to review their payroll information and deductions for accuracy. If a Police Officer is overpaid, given more leave benefits than they are due, or receives any other benefit or compensation to which they are not entitled, whether due to error for any reason, a Police Officer's misrepresentation, the misapplication of a policy, or an error in processing, the Police Officer is expected to notify the Centralized Payroll Unit. The City will take steps to recover the benefits or compensation. Likewise, any form of payroll deduction that results in an underpayment should be reported, as well.

Police Officers are expected to repay the City upon notification of an overpayment error. Generally, Police Officers are given the same amount of time to complete repayment to the

City as the time during which the error or overpayment was made, unless otherwise provided for by agreement. For example, if a Police Officer was overpaid for three pay periods, the Police Officer would have up to three pay periods from the date of notification to complete repayment. Police Officers will not be allowed to repay the City over multiple pay periods if such payments would cross over into another calendar year.

Attempts will be made to establish an agreed method to recover overpayments. Failure to agree on a method may result in appropriate action initiated by the City to correct the issue. A Police Officer's failure to cooperate in the recovery process could also result in disciplinary action up to and including indefinite suspension. Before making a deduction from an Officer's pay for an overpayment, the Department and HR shall obtain a review by the Legal Department to assure compliance with wage and hour laws, the then-existing labor agreement, and other rules or laws.

### **2.10.3 Deductions from Exempt Officers' Pay**

Exempt Police Officers receive a salary that is intended to compensate them for all hours worked for the City. While it may be subject to modification from time to time, such as during salary reviews, an exempt Police Officer's salary will be a predetermined amount that is not subject to reduction due to variations in the quality or quantity of the work performed, except as specifically allowed by law. The City prohibits the improper pay deductions specified in 29 CFR Section 541.602(a).

Under the following circumstances, though, the City may, but is not required to, deduct from an exempt Police Officer's pay:

- For absences from work due to sickness, disability or personal reasons when the Police Officer has no paid leave to use;
- To offset amounts received by a Police Officer for jury fees, witness fees or military pay;
- For unpaid disciplinary suspensions of one or more full days imposed in good faith for infractions of written workplace conduct rules;
- For penalties imposed in good faith for infractions of safety rules of major significance;
- For weeks in which an exempt Police Officer takes unpaid leave under the Family and Medical Leave Act; and
- For unworked days in the initial or terminal week of employment.

Police Officers' salaries may also be reduced for certain types of deductions such as their portion of health, dental or life insurance premiums; state, federal or local taxes; Medicare; or contributions to a 457 or pension plan. Further, reducing a Police Officer's accrued vacation,

personal, sick or other form of paid time off for full-or-partial-day absences for personal reasons, sickness, or disability does not constitute an improper deduction.

It is the policy of the City of Fort Worth to accurately compensate Police Officers in compliance with all applicable state and federal laws. To ensure that they are properly paid for all time worked and so that no improper deductions are made, Police Officers must correctly report all work time and review their pay advice to identify any errors.

If a Police Officer believes that an improper deduction has been taken from his or her pay, he or she should use the following reporting procedure. If the Police Officer discovers an improper deduction within seven calendar days after the date of the relevant pay advice, he or she should contact the Centralized Payroll Unit. If the error is not corrected within 20 days of submission, the Police Officer or the HRC should contact their manager or supervisor. All improper reductions of pay in exempt Police Officers' compensation should be reported, regardless of when they are discovered.

Any act of retaliation against a Police Officer who questions his or her pay is strictly prohibited.

Reports of improper deductions will be reviewed as quickly as possible. If it is determined that an improper deduction has occurred, any underpayment will be reimbursed and efforts will be made to ensure that further improper deductions do not occur in the future.

#### **2.10.4 Final Pay at Termination or Retirement**

Final pay for hours worked in a pay period before termination is directly deposited into the Police Officer's primary designated account or pay card account on the pay day after the termination ePAR is processed. Police Officers who terminate during the pay period are not paid for vacation and short-term sick/family leave accrued during that final pay period.

If a pay rate change occurs during the pay period in which the Police Officer terminates, the Police Officer is paid his or her terminal leave pay (including appropriate leave balances) at the pay rate on the date of their separation.

The Police Officer is also compensated for any appropriate leave balances at the Police Officer's final pay rate. Nonexempt and Exempt Police Officers are paid for accrued compensatory time at termination regardless of the reason for the termination.

The City can collect any money from the Police Officer's final pay or terminal leave payout that is owed to the City for benefits or overpayments. If the pay for the hours worked on the final paycheck is reduced to below the minimum wage, the Law Department needs to be consulted to ensure that FLSA regulations are not violated.

#### **2.10.5 Prior Pay Period Adjustments for Pay or Leave Corrections**



Pay, leave and other adjustments should be made to timesheets immediately after the pay period and up to 14 days after the pay period begin date. The reasons for adjustments must be documented by the timekeeper/person making adjustments and maintained with payroll records for the pertinent time reporting period. Any adjustments 14 days or later after the pay period begin date require the review and approval of the Human Resources Director to adjust the leave balances. The review request is submitted by the Police Chief or designee to the Human Resources Director. Corrections or adjustments due to “clerical” or timekeeper error do not require a waiver.

### **2.10.6 Daylight Saving Time Pay Considerations**

When a time change occurs during a Police Officer’s shift, the Police Officer is paid for actual hours worked and can use leave time to make up any time lost for a complete shift because of a time change. Nonexempt and exempt Police Officers assigned to an evening or night shift enter a start and stop time for hours worked within a shift so the Daylight Saving\_Time Rule can accurately adjust the time. Exempt Police Officers not assigned to a shift report the actual hours worked.

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## **3. Classification**

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### **3.1 Purpose and Introduction**

Classifications for civil service positions will be managed in compliance with the Texas Local Government Code and any then-applicable labor agreement. TLGC Chapter 141 requires that covered municipalities classify all civil service positions and specify the duties and prescribe the salary for each classification. TLGC Chapter 143 requires that the civil service commission provide for the classification of all civil service employees, and that city council prescribe the number of positions in each classification by ordinance. Otherwise classifications can only be added, deleted or changed through a Meet and Confer Agreement.

The purpose of this chapter is to provide guidelines on Police classifications. The City of Fort Worth groups budgeted positions into classifications (also called ranks). The positions within a classification have similar duties and responsibilities. The City treats the positions in a classification as equivalent with regard to personnel and salary administration.

The Human Resources Department provides the classification specifications. The specifications describe the range of duties that are performed by employees in the class. The specifications include essential and other duties and responsibilities statements, qualifications, and working conditions of the classification. Classification specifications describe only the major duties and functions and are not intended to describe specific positions in detail.

Official classification titles are used in all personnel, payroll, accounting, budget appropriations and functional records and transactions. "Working" or "functional" job titles may be used at the discretion of individual Department directors; however, official class titles must be used when processing personnel action requests (PARs). A coding system designates each classification.

The Human Resources Director administers and maintains the classification system and may initiate studies of individual positions, a series of positions, classifications, occupational groupings or organizational units to maintain the integrity of the classification system. When the need for a new classification arises, the Human Resources Director establishes a new classification title and develops classification specifications for the new classification.

For questions about this chapter, contact the Classification and Compensation Manager in the Human Resources Department.

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## 4. Employment

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### **4.1 Purpose and Introduction**

This chapter serves to provide information on types of personnel actions and to inform Police Officers of requirements and processes in regards to employment with the City of Fort Worth.

For questions about this chapter, call the HR Manager for Talent Acquisition and/or Classification/Compensation/Civil Service.

## **4.2 Personnel Actions**

All transfers and assignments are the sole prerogative of the Police Chief and are not subject to the grievance procedure. Additional requirements regarding personnel transfers may be found in the Department General Orders.

## **4.3 Conditions of Employment**

### **4.3.1 Initial Probation**

The initial probation is a time when new, reappointed, or lateral-entry Police Officers become familiar with their job. The new, reappointed, or lateral-entry Police Officers, determine whether he or she can perform the duties of the job. Likewise, the Police Chief determines whether the new, reappointed, or lateral-entry Police Officers can perform assigned tasks satisfactorily and comply with work rules and regulations.

Police Trainees, Lateral Entry Officers, and Reappointed Police Officers are in a probationary status from the date of hire until the completion of Police Academy training, plus one year following being commissioned as a Fort Worth Police Officer, or as outlined in the then-applicable labor agreement, or TLGC Chapter 143, whichever is in effect. Some Lateral Entry and Reappointed Police Officers may qualify for modified Policy Academy training as outlined in the then-applicable labor agreement.

A probationary Police Trainee, Lateral Entry Officer, or Reappointed Police Officer may be dismissed at any time for any reason or no reason during the initial probation, subject to the provision of applicable state and federal law, including but not limited to equal opportunity and anti-discrimination laws. Initial probation Police Trainees, Lateral Entry Officers and Reappointed Police Officers are “at will” employees.

Sick leave is available for use during initial probation after six months with supervisory approval. Earned holiday leave hours accrued can be used during the initial probation, with supervisory approval. During the initial probation period, a Police Officer who has requested to use earned compensatory time shall be permitted to use such time within a reasonable period after making the request if, in the opinion of the Police Chief or designee, the use of compensatory time does not unduly disrupt the operations of the Department.

Other accrued leave benefits such as vacation are available for use with supervisory approval only after successfully completing the initial probation period. Personal holidays are subject to the use-or-lose date of December 31<sup>st</sup> annually. If the initial probation is extended, the use of accrued leave and personal holiday is at the discretion of the Police Chief. During probation, Police Officers can access 24 hours of family illness leave for funeral and bereavement leave if approved by the Police Chief.

### **4.3.2 Off-Duty Employment**

Off-Duty employment requires approval from the Police Chief or designee. The terms and conditions governing off-duty police employment including the limitations on maximum hours, and prohibitions on specific types of off-duty employment are outlined in the General Orders. Any request for off-duty employment may be refused or, if approved, rescinded, if the Police Chief or designee determines that it is incompatible with City employment or presents a conflict of interest. Additional terms and conditions governing off-duty employment may be located in any then-applicable labor agreement or the Police Department General Orders.

Failure to disclose off-duty employment may lead to disciplinary action up to and including indefinite suspension, which is equivalent to dismissal from the Department.

### **4.3.3 Police Officer Personnel Records**

The City maintains a personnel file for Police Officers pursuant to TLGC, Section 143.089(a) (“A” files) and 143.089(g) (“G” files).

The “A” files as outlined in the TLGC are maintained by the City of Fort Worth Human Resources/Civil Service Director and consists of, but are not limited to, employment records, periodic evaluations, commendations/honors, misconduct and disciplinary action, civil service files/commission records, that notices of promotion, TCOLE licensing certificates, and notice of commission as a Police Officer. The Department shall forward all “A” files to the Civil Service Director.

The “G” files as outlined in the TLGC are maintained by the Police Department. These files may consist of, but are not be limited to, records of disciplinary action that resulted in less than one day off, disciplinary action that was later appealed and overturned, documents for the department’s own use relating to the employment relationship, and use of force reports that do not result in a day off or more or are unsustainable.

Except in limited circumstances, the information contained in the “G” file is confidential by law under the Public Information Act.

Any person may inspect and review the personnel records during regular business hours by submitting a request in writing by fax, mail, email, in person or over the online public information portal (FOIA) maintained by the Records and Information Management Office.

Confidential information contained in a Police Officer’s personnel file, other than “G” file material, is open for inspection by the Police Officer themselves or the Police Officer’s authorized agent. Police Officers can also review their personal information through employee self-service in PeopleSoft.

The Human Resources Director or designee shall notify a Police Officer within 30 days of a negative letter, memorandum, document, or other negative notation that is included in a Police Officer’s civil service file. The Police Officer may, on or before the 15th day after the date of

receipt of the notification, file a written response to the negative letter, memorandum, document, or other negative notation.

Additionally, a Police Officer who objects to information or material in his or her permanent personnel file, because it is inaccurate or misleading, can file a complaint with the Human Resources Director or designee. A Police Officer should make a request within 30 days of the date that the Police Officer knew, or should have known, that the disputed information was in the personnel file. The Human Resources Director, or designee, will determine if the information in the personnel file should be changed and this decision is final and cannot be appealed. This complaint process does not apply to simple factual inaccuracies in a Police Officer's personnel file, such as address and phone number or to disciplinary actions or performance appraisals.

The City may, at its discretion, modify a Police Officer's personnel record if, after termination, additional information becomes available that impacts an individual's eligibility for rehire. This additional information shall be maintained in the Police Officer's "G" file.

#### **4.3.4 Nepotism (Employment of Relatives) and Personal Relationships**

Employment of relatives is permitted; however, employees may not use their position to influence their appointment or employment.

A personal relationship in and of itself is not inappropriate. The Department shall exercise due respect for the right of personal associations and privacy of Police Officers. However, all decisions by a supervisor must be viewed as fair, objective, and impartial.

When a personal relationship exists or occurs between a supervisor and subordinate who are in the same chain of command or within the same workgroup, the involved supervisor shall immediately inform their immediate supervisor.

The appropriate division commander or manager shall also be notified and shall ensure one of the involved employees is immediately reassigned to a position in which the supervisor/subordinate relationship conflict no longer exists. The bureau assistant chief shall be notified to ensure the action taken is appropriate.

Transfers on the basis of personal relationships shall be made in accordance with existing transfer procedures, but in any case, the bureau assistant chief shall ensure immediate and appropriate action is taken to preclude the continuance of the personal relationship conflict in the chain of command or within a workgroup. Supervisors are strictly forbidden from using their authority to coerce sexual favors from subordinates, or retaliating against subordinates who refuse a supervisor's sexual advances. A supervisor is strictly forbidden from giving favorable treatment to a subordinate who engages in a personal and/or sexual relationship with that supervisor. Likewise, a supervisor is strictly forbidden from giving less favorable treatment or being retaliatory toward a subordinate who refuses to engage in a personal and/or sexual relationship with that supervisor. Please refer to Chapter 13, Sexual Harassment and Inappropriate Conduct in the Workplace for more information.

### **4.3.5 Searches of Work Areas and Employee Belongings on City Property**

Police Officers do not have an expectation of privacy with respect to items related to their work, for example, passwords, combinations, desk drawers, file cabinets, work areas, city vehicles, and lockers. Police Officers will be required to provide supervisors with passwords and keys upon request. Police Officers may only use personal locks on City property if approved by their supervisor or the Police Chief. Police Officer ownership of a lock is not determinative of privacy or a private space.

Police Officers should limit the amount of personal belongings that are carried or kept on City premises and the Police Officer retains the responsibility and liability for any personal belongings brought to the workplace that are lost, stolen, or damaged.

Additional workplace and personal searches based on reasonable suspicion or probable cause of policy violations or criminal conduct shall be conducted pursuant to the Police Department General Orders.

### **4.3.6 Global Positioning Devices**

The City may choose to equip some or all of its vehicles used by Police Officers with Global Positioning System (GPS) devices (e.g., Automatic Vehicle Locators or AVLs) or internal cameras in order to track and monitor workplace conduct and/or the location of City vehicles, including those vehicles that are assigned to specific Police Officers.

### **4.3.7 Rest and Meal Breaks**

If authorized by their immediate supervisor or unless otherwise modified by a then-applicable labor agreement, Police Officers may usually take two (2) fifteen (15) minute rest breaks per normal working day, one during the first half and one during the second half of the workday. Rest breaks are compensated time. Breaks are dependent on the level of activity during the shift, and might be denied by the supervisor depending on the circumstances.

The fifteen (15) minute time for the rest break begins at the time a person leaves their workstation until they return to the workstation or if assigned to a vehicle, from the time they leave the vehicle until they return to the vehicle. Police Officers working special overtime assignments of less than four (4) hours shall not normally be allowed a rest break. Police Officers working at least four (4) hours but less than eight (8) hours may be allowed one (1) fifteen (15) minute rest break. Rest breaks shall not be taken in conjunction with lunch breaks to extend the break time, nor shall rest breaks be taken during the first or last hour of any shift.

Rest breaks shall be taken in the Police Officer's assigned beat/area unless authorized by a sergeant or above.

If authorized by their immediate supervisor or unless otherwise modified by a then-applicable labor agreement, Police Officers working a normal workday, either eight (8) or ten (10) hours, may usually take one meal break. Police Officers working special overtime assignments of less than a normal workday (8 hours or 10 hours), but at least six (6) hours, may take one (1) meal break. A meal break is not guaranteed, and might be denied at the supervisor's discretion depending on the circumstances and the level of activity during the shift.

Meal breaks may be requested at any time during the shift, but will only be taken when cleared by the dispatcher. Meal breaks are normally taken in the Police Officer's assigned area. Meal breaks in an adjacent area, division, or adjacent division are permitted with permission from the Police Officer's supervisor.

Police Officers must complete radio calls and return to service before proceeding to a meal break. This provision specifically prohibits going to a meal break location and finishing paperwork while on any call other than an authorized break. Police Officers assigned to specific geographic beats/areas, temporarily or permanently, shall upon arrival at the break location, request clearance to take a break from the dispatcher and furnish a telephone number and/or location where they can be contacted. Other activities such as the ordering of meal, etc., before calling out, are prohibited. Upon completion of a meal break, Police Officers shall call in service to the dispatcher verbally and immediately exit the premises, and press the 10-24 button on the MDC when returning to the vehicle. The maximum number of marked police units allowed at one location for the purpose of a meal break is two (2). Officers must also follow directives contained in the Police Department General Orders concerning meal breaks.

#### **4.3.8 Uniforms and Dress Code**

Police Officers in the department shall only wear such uniform and insignia as the Police Chief may prescribe. Uniforms shall be defined to include any clothing, footwear, and headgear worn on-duty while carrying out assigned duties and shall include, but not be limited to, raid outfits, shirts with a facsimile of the police badge and the word "police" on it or the name of a functional entity of the department, ballcaps, helmets and six-pocket pants.

Other specific details on the approved department dress code for additional assignments and occasions may be found in the General Orders.

#### **4.3.9 Use of Fragrances in the Workplace**

Police Officers are expected to be sensitive to others in the use of fragrances on their person and/or in their work spaces (e.g. perfumes, cologne, air fresheners, etc.). If a fragrance negatively affects another person in the workplace or visiting City facilities, the Police Officer may be required to remove the source of the fragrance. If it is necessary to leave work to do

so, Police Officers are required to use their own leave time. If no leave time is available, the absence will be without pay.

#### **4.3.10 Participation in City-Sponsored Events**

If a Police Officer attends an official City-sponsored event during scheduled work time, it is considered work time. Supervisor approval is necessary for a Police Officer to attend such events. If a Police Officer attends a City-sponsored event while off work, it is not work time and the time will not be compensated. Examples include City-sponsored health fairs, donating blood, retirement preparation meetings, and open enrollment benefit meetings.

#### **4.3.11 City Auctions**

The Fort Worth City Code prohibits City employees from either directly or indirectly submitting bids for, or purchasing, any property sold by the City through a City Auction. Only individuals who are non-City employees, and not acting on behalf of a City employee, and who have properly registered to participate, may bid or purchase property at City auctions.

#### **4.3.12 Smoking in the Workplace**

City of Fort Worth buildings and facilities are "smoke free" by City Ordinance No. 13009. Police Officers must adhere to this policy and bring it to the attention of persons visiting City buildings and facilities. City vehicles are considered designated work areas under this policy and are "smoke free." This prohibition includes the use of cigarettes, pipes, and cigars. The use of electronic cigarettes, e-cigarettes, or personal vaporizers, is also prohibited, unless they are used in connection with a Tobacco Cessation Program verified through the city's Wellness Program.

Smokeless tobacco, unlit cigarettes, or chewing tobacco products may also be prohibited in buildings, facilities, and vehicles due to hygiene or professional appearance concerns. Police Officers who take "smoke breaks" must comply with the break policy. No additional breaks or rest periods are granted to Police Officers who smoke.

#### **4.3.13 Religious Expression and Prayer in the Workplace**

The City of Fort Worth is prohibited from discriminating against employees on the basis of belief in any religion, or nonbelief in religion. The City is required to allow its employees to individually express their religious beliefs to the greatest extent possible, consistent with the requirements of the law and workplace efficiency.

The expression of religious beliefs should not cause a disruption to other employees or the work environment and should not interfere with the performance of essential job functions. Any requests for religious accommodation should be made by contacting the Employee and Labor Relations Division of the Human Resources Department. Additionally, religious harassment will not be permitted.



The City is prohibited from requiring its employees to participate in religious expression, such as prayer, as a condition of employment. This includes situations such as employee meetings, conferences, holiday luncheons, retirement receptions, and office parties. In lieu of a prayer, employees may begin holiday luncheons with a moment of silence. This does not prohibit employees from engaging in religious practices on an individual basis, such as reading a religious book at the employee's desk during a break.

Invocations at City Council Meetings are excluded from this policy.

#### **4.3.14 Political Activity**

Political Activities of Police Officers are governed by Section 2-186 of the City Code and the Texas Local Government Code Section 143.086. Police Officers excluding the Police Chief, Assistant City Managers, the City Attorney, and the City Manager, may take an active part in another person's political campaign for City Council. Police Officers are prohibited from taking an active part in their own, or any other person's, political campaign for an elective position during working hours or while wearing a City uniform. The term "taking an active part" includes, but is not limited to, wearing campaign-related clothing or accessories (e.g., buttons, nametags), making a political speech, making financial contributions, distributing, or displaying on City premises, campaign literature or insignia, writing a letter, signing a petition, and actively soliciting votes.

The City does not prohibit a Police Officer from becoming a candidate for public office. No disciplinary action shall be taken against a Police Officer, including indefinite suspension, solely because the Police Officer becomes a candidate for public office. A Police Officer who becomes a candidate for public office must fulfill all the duties and responsibilities associated with his or her employment.

Police Officers may actively campaign in any national, state, county, city (as excepted above) or school board election on their own time and away from their job site. All Police Officers are encouraged to exercise their constitutional rights and vote. For complete information, see *City Code Section 2-186*.

#### **4.3.15 Nursing Mothers**

A Police Officer is entitled to express breast milk at the workplace. The City supports the practice of expressing breast milk and will make reasonable accommodations for the needs of Police Officers who express breast milk. The City provides a reasonable amount of break time for a Police Officer to express breast milk each time a Police Officer has a need to express the milk. The Police department shall provide a place, other than a bathroom, that is shielded from view and free from intrusion from other Police Officer employees and the public, which may be used by the Police Officer to express breast milk. Breastfeeding Police Officers shall have access to a sink with hot water and soap for washing hands and rinsing breast pump parts. Expressed milk can be stored in workplace refrigerators in the break room or the Police Officer's personal cooler. All expressed milk must be labeled with the Police Officer's name.

As with any personal food item, handling and supervision of the expressed milk is the sole responsibility of the Police Officer.

The City will not discipline, or otherwise discriminate against a Police Officer because the Police Officer has asserted her rights to express breast milk at the workplace.

Police Officers who plan to express milk during work hours need to communicate with their supervisors regarding space and scheduling needs. Supervisors or a department-designated coordinator should promptly work with nursing mothers to find a suitable place in compliance with this policy. For informational materials about breastfeeding or for assistance in setting up a suitable temporary location to express breast milk, supervisors and Police Officers should contact the Human Resources Wellness Division. The Police Department is only required to maintain a location for expressing breast milk when a Police Officer has a need to do so. But department staff are also encouraged to plan ahead and consider where a suitable location might be designated quickly in the event the need arises.

To the extent that it is feasible, nursing mothers should use the amount of time normally allotted for breaks and lunch periods to express breast milk. If the Police Officer uses a break that would otherwise be compensated, she must be compensated in the same way that other Police Officers are compensated for that break time. If, however, a Police Officer uses a break that would otherwise not be compensated, she will not be compensated for the break time. There may occasionally be times when a nursing mother needs more than her usual amount of time to express breast milk. On such occasions supervisors may, depending on the needs of the individual worksite, allow the Police Officer additional paid time, allow her to make up the additional time at the end of the work day, or use compensatory time or available leave that can be used for such purposes, e.g., vacation leave, holiday leave, or personal holiday leave.

#### **4.3.16 Parent/Teacher Conferences**

Attending parent/teacher conferences is an important work/life event for Police Officers with school-age children. Supervisors should be flexible and attempt to revise work schedules or duties to allow Police Officers the time to attend these conferences. Police Officers may use available vacation leave, compensatory time, holiday leave or personal holiday leave to attend these conferences.

The Police Chief may establish departmental guidelines for allowing Police Officers to attend parent/teacher conferences while minimizing work disruption or loss of productivity. The Police Chief may also require documentation that a Police Officer has attended a parent/teacher conference.

#### **4.3.17 Police Officer Organizations and Associations**

Police Officers can join, organize or maintain membership in an employee or labor organization if desired. The City neither encourages nor discourages these activities, nor does

membership or non-membership in an employee or labor organization affect the Police Officer's standing or rights as a City employee. The policy herein stated is in accordance with the provisions of the laws of the State of Texas and the Charter of the City of Fort Worth.

Pursuant to Texas law, it is illegal for Police Officers to strike or picket or take any action that interferes with the ordinary and orderly conduct of the City government's business.

Unless provided by statute, governmental employees of Texas cities have no legal right to bargain collectively. Consistent with this policy, state law denies City officials the power to enter into a collective bargaining contract or unconditional promise with any employee group or employee organization that is not authorized by state statute. However, the City is currently authorized to participate in the Meet and Confer process with the sole and exclusive bargaining agent for all covered Police Officers pursuant to subsection I of Chapter 143 of the TLGC.

Solely as a convenience to Police Officers belonging to an employee association or labor organization, the City of Fort Worth deducts dues when specifically authorized by the Police Officer employee and where the deductions comply with City policy. The terms and conditions of certain dues deductions may be modified pursuant to a then-applicable labor agreement. Membership in such organizations and/or any related payroll deductions do not affect a Police Officer's job or standing as a City employee.

#### **4.3.18 Employee Identification Badge**

Police Officers are issued an Employee Identification Badge with photo and employee number when they are hired. New Police Trainees, Rehired, and Lateral Transfer Officers receive their Employee Identification Badge during New Employee Orientation.

The employee Identification Badge is City property. It can only be used for identification purposes and for employee access to City buildings. Access to secure locations or emergency scenes must be approved by an Assistant City Manager. The Police Officers must have the badge in their possession when engaged in City business.

If a Police Officer loses their Identification Badge, the Police Officer should immediately contact their department's Training Division for a replacement badge and so the lost card can be deactivated.

When a Police Officer's employment ends, the department's Training Division will retrieve the employee Identification Badge and other City property. If a Police Officer terminates employment without notice, the department's Training Division will facilitate the cancellation

of any access codes associated with the Identification Badge. The department will attempt to contact the terminated Police Officer to retrieve the Identification Badge and other City property in the ex-employee's possession. The City may charge a former Police Officer a reasonable fee if the Police Officer does not return City property after the Police Officer's employment ends, and may deduct that reasonable fee from the former Police Officer's final paycheck.

### **4.3.19 Furlough**

#### **4.3.19.1 Nonexempt Officers During Furloughs**

During any week that a furlough is mandated, nonexempt Police Officers will have their normal workweek reduced to the designated number of hours in the workweek. Nonexempt officers will only be allowed to work the designated number of hours in that workweek, which will result in a corresponding reduction of pay for that week.

#### **4.3.19.2 Exempt Officers During Furloughs**

When a furlough is mandated, exempt Police Officers are considered nonexempt, and work only the designated hours in that workweek. A mandatory furlough and the resulting deductions from pay do not disqualify an exempt Police Officer from being paid on a salary basis except in the workweek during which the furlough occurs and for which the Police Officer's pay is accordingly reduced.

#### **4.3.19.3 Other Furlough Considerations**

Leave accruals are reduced during the pay period in which a furlough is taken in proportion to the reduction in the number of hours worked. Accrued leave benefits, such as vacation or compensatory time, cannot be taken or used in lieu of a furlough.

Workers' compensation weekly benefits are not affected by furlough days. City-provided workers' compensation supplements are not paid on furlough days.

Intentional violations of this policy may result in disciplinary action, up to and including days off without pay and an indefinite suspension.

#### **4.3.19.4 Exceptions to Furlough Policy**

Situations may arise that require exceptions to the furlough policy. The Police Chief is authorized to use their discretionary authority to require Police Officers to work more than the allowable work hours during a furlough week. In addition, the department may need to modify a Police Officer's furlough schedule because of operational needs.

If a Police Officer must work more hours than designated in a workweek in which a furlough is in effect, the hours are compensated at straight time up to 40 hours worked and at time and one-half for hours over 40.

During a furlough week, a Police Officer called back to work an emergency after regular working hours and after having left the job site, or to work a double shift, earns emergency callback pay at time and one-half for a minimum of four hours. The Police Officer must limit total hours worked during the furlough week, including emergency callback hours, to the maximum allowable work hours if at all possible. If the emergency callback causes the officer's total hours worked to exceed the allowable hours, the number of hours worked over the allowable hours up to 40 hours must be furloughed in another workweek. Supervisors need to closely monitor and approve emergency callback to control unnecessary overtime costs.

### **4.3.20 Reductions in Force and Reinstatement List**

Occasionally, a reduction-in-force is necessary because of changes in the organization or the availability of funds. The criteria utilized to evaluate a workforce reduction for Police Officers are based on seniority as defined in the then-applicable labor agreement. Other reduction-in-force requirements are outlined in TLGC, Chapter 143.085, Force Reduction and Reinstatement List.

#### **4.3.20.1 Reemployment Salary and Benefits For Laid-Off Officers**

A laid-off Police Officer reemployed as a Police Officer will be paid a salary as required in the then-applicable labor agreement. A Police Officer reemployed as a General Employee within one year of the lay-off, is placed into a salary range of the new position that minimizes their loss, if any, in salary.

A Police Officer who has completed the initial or extended probationary period at the time he or she is laid off will be compensated for unused leave. A rehired Police Officer will receive an adjusted service date as determined by the then-applicable labor agreement. If no labor agreement is in effect, the service date will be determined by the applicable retirement ordinance, which is subject to change. A Police Officer who is laid off and later reemployed by the City as a general employee will have his or her pension benefits determined by the terms of the applicable retirement ordinance, which is subject to change.

### **4.3.21 Officer Resignation**

Police Officers desiring to terminate their position with the department shall be required to complete the following procedure:

1. Provide written notification of a request for termination addressed to the Chief of Police.

2. Present the written notification to their supervisor a minimum of two (2) working days prior to termination for hand delivery through the chain of command. The supervisor shall deliver the notification to the Chief of Police or designee within three (3) working days or before the date of termination, or as soon as the officer submits notification, whichever is shorter. The Chief of Police shall indicate acknowledgment by signature, indicating both date and time.
3. Exceptions to the above policies are granted when the Police Officer is physically unable to come to the police facility or geographically separated by an extreme distance. In these instances, the terminating Police Officer shall be required to send notice of termination via registered letter or e-mail to the Police Chief.

Departing Police Officers shall be required to contact the Police Training Division and obtain the forms that must be completed when separating employment. The Training Division will provide all terminating Police Officers the Exit Interview for Voluntary Resignations form (FWPD-124-10/98) to complete. The Training Division will forward the out-processing form, equipment checklist and notice of resignation to the Employment Services Section.

All City-issued equipment must be returned to the Police Training Division at the time of termination. Police Officers who have canceled the financial obligations for the original issue cost may keep their clothing and leather goods. Police Officers who have satisfied a portion of the obligation shall be allowed to retain that portion of their uniforms equal to the amount of the obligation satisfied.

Police Officers who fail to return any non-expendable equipment, or return the equipment in such condition as to indicate extreme misuse, must provide reimbursement at the current replacement cost as determined by the Training Division and/or Asset Management Division.

Extreme misuse shall be determined by the supervisor receiving the returned property. Lost, misplaced, or stolen articles declared at the time of termination shall be cause for a report being made. Any Police Officer making claims which they know are false shall be subject to legal action. The Police Officer reporting the theft or loss shall be responsible for completing the necessary police reports.

Unless an exception is granted by the Police Chief, all equipment must be returned no later than the fifth (5) working day following the Police Officer's termination. When equipment is not returned, Internal Affairs shall be notified by the Training Division. However, all retiring Police Officers may elect to retain one (1) badge pursuant to the General Orders. However, retirees are specifically prohibited from using these items to indicate they are serving in an official police capacity for the Fort Worth Police Department.

The Police Training Division shall be responsible for submitting the necessary forms to the Texas Commission on Law Enforcement (TCOLE) not later than the seventh (7<sup>th</sup>) business day after a sworn member terminates or retires from the department.

All terminating Police Officers must ensure that the above steps are completed. Upon being notified by the Police Training Division that all forms have been submitted and detailing the equipment returned, the Employment Services Section shall produce the paperwork necessary for issuing a final paycheck.

#### **4.3.22 Involuntary Termination (Indefinite Suspension)**

TLGC chapter 143 addresses the procedures and appeal rights of a Police Officer who is indefinitely suspended. Indefinite suspension is equivalent to dismissal from the department.

When a Police Officer is indefinitely suspended, the employment of the Police Officer with the City is terminated effective the date of the indefinite suspension. The Police Officer receives terminal leave pay for unused vacation leave, compensatory time, and accumulated holiday leave. The Police Officer is paid for unused sick leave as required by the TLGC, Chapter 143.045, unused family leave, personal holiday leave or wellness leave is not compensated. A Police Officer who is vested in the City's retirement system may request to withdraw their contributions to the retirement system.

An officer who is indefinitely suspended for disciplinary reasons shall have appeal rights afforded pursuant to the then-applicable agreement and/or TLGC Chapter 143. If an officer is reinstated after an appeal with full or partial back pay, the back pay shall be offset by wages that the officer earned during the suspension, and the terminal leave pay that was paid on the date of the indefinite suspension. Other withholdings may also be made pursuant to the then-applicable contract, income tax withholdings, and other laws and judgments that may apply. Paid leave that would have accrued during the reinstated time will be entered into the officer's accrual subject to then-applicable caps and any offset of paid terminal leave.

Police Officers in the probationary period of employment may be terminated by the Police Chief without cause when they fail to meet the minimum standards of employee performance or when they violate the General Orders, Civil Service Rules and Regulations, these PDPRRs, charter provisions, ordinances, or the laws of Texas or the United States. Such employees have no right of appeal under the provisions of TLGC, and the decision of the Police Chief shall be final.

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## 5. Leave

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### 5.1 Purpose and Introduction

This chapter provides general guidelines for accruing, using and administration of different types of leave available to Police Officers. Police Officers who misuse or abuse any leave benefit are subject to appropriate disciplinary action, up to and including indefinite suspension.

The City's personnel policies, including the leave policies in Chapter 5, DO NOT CONSTITUTE A CONTRACT. Any compensation and/or benefit policies explained in these regulations are subject to review at least annually by City Council and are subject to change at any time. If any labor agreement expires or is terminated, City Council reserves the right to implement any compensation and/or benefits that it considers appropriate at that time.

For questions about this chapter, call the Police Department Employment Services Division or the Human Resources Department Manager for Benefits or HRIS/Records.



## 5.2 Vacation Leave

The City of Fort Worth provides paid vacation leave to Police Officers. Police Officers begin accruing vacation leave after they have worked a full pay period. Use of vacation leave is generally not allowed by Police Officers during a probation period unless the Police Chief approves such use during the probation period.

Police Officers cannot use more than 15 work days of vacation per year without written approval from the Police Chief or designee. If a City holiday occurs while a Police Officer is on approved paid leave, it is counted as a paid holiday and no time is deducted from the Police Officer's leave balance for that day.

The operational needs of the department may require supervisors to request that Police Officers explain the circumstances of their requested leave, so the supervisor can decide whether to approve the leave request. If requested, failure to provide information or documents concerning the requested leave could result in the denial of leave. Supervisors may rescind previously approved vacation leave because of work issues. The supervisor must consider the consequences to the Police Officer of which the supervisor is aware (prepaid travel expenses, family issues, Police Officer morale) compared to the operational needs of the department in deciding whether to deny or rescind requested leave.

Police Officers may only request time off if they have the associated leave time available, except as provided in Section 5.7 Leave Without Pay. Limits on the maximum amount of accrued vacation leave as of the beginning of the calendar year (January 1) may be found in the then-applicable labor agreement, or, if no agreement is in effect, in the vacation accrual rules that City Council adopted prior to the contract.

Police Officers must use at least 80 hours of vacation before the end of the calendar year (December 31). Failure to use at least 80 hours will result in the loss of accrued vacation leave in an amount equal to the difference between 80 hours and the total number of hours of vacation the Police Officer used during the calendar year. This is generally referred to as the "use it or lose it" rule. Sell back of accrued vacation leave or donation of leave will not count toward this "use it or lose it" requirement. What this means is that hours sold back are not included in the 80-hour usage requirement. In addition to the 80 hour usage requirement, Police Officers will also forfeit any additional accrued vacation leave that is over the maximum allowable amount at the beginning of the calendar year.

The Police Chief may contact the Human Resources Director to request a waiver of a specific "use it or lose it" provision as related to vacation hours. The requests should identify the business or work-related reasons why a Police Officer was not able to use the leave that would be lost without the waiver. Special assignments, critical projects, or the Police Officer being assigned to serve in a higher or unfamiliar capacity represent situations that may be acceptable business reasons for waivers. Time off work because of injury, illness or any type of extended absence is not an acceptable basis for a waiver. The decision of the Human Resources Director regarding whether to grant or deny the waiver is final.

Police Officers who retire, resign or are terminated (after completion of their initial probation) will be paid for all unused vacation leave subject to any limits outlined in the then-applicable labor agreement. Police Officers whose employment ends during a pay period will not be paid for vacation leave accrued during their final pay period. Police Officers whose employment ends at the end of a pay period (and who worked or were on approved leave during the entire pay period) will be paid for vacation leave accrued during that pay period.

A Police Officer’s break in service with the City will be given an adjusted service date (which is considered a new date of employment). The terms and conditions of the adjusted service date are outlined in the then-applicable labor agreement.

The chart below demonstrates the rate of vacation leave accrual for Police Officers:

<b>*Tenure w/City (Years)</b>	<b>Accrual Rate Per Pay Period (Hours)</b>	<b>Accrual Rate Per Year **(Number of Hours)</b>
<b>0 to 5 years</b>	<b>4.50</b>	<b>117</b>
<b>Over 5 years to 10 years</b>	<b>5.12</b>	<b>133</b>
<b>Over 10 years to 15 years</b>	<b>5.42</b>	<b>141</b>
<b>Over 15 years to 20 years</b>	<b>6.04</b>	<b>157</b>
<b>Over 20 years</b>	<b>6.96</b>	<b>181</b>
<i>*A Police Officer's Vacation Leave accrual rate changes at the beginning of the 6th, 11th, 16th, and 21st year of service with the City. For example, the beginning of the 6<sup>th</sup> year occurs when a Police Officer has worked 5 years and 1 day.</i>		
<i>** Based on the then-applicable labor agreement.</i>		

### 5.3 Sick Leave

Unless otherwise modified by a then-applicable labor agreement, a Police Officer is entitled to accrue sick leave with pay at the rate of 4.62 work hours for each full pay period which computes to 1¼ days for each full month employed for a maximum of 120 hours for each twelve (12) months of employment. Police trainees begin accumulating sick leave on the first day of their initial employment. However, sick leave may not be used until the Police trainee has been employed at least six (6) months. Sick leave may only be used as outlined in the General Orders.

A Police Officer may accumulate sick leave without limit and may request to use the leave if unable to work because of a legitimate illness. A Police Officer who is temporarily disabled by a line-of-duty illness or injury and whose physician does not release the Police Officer to perform work of any nature will be provided a leave of absence with pay for a period commensurate with the nature of the line-of-duty illness or injury, to be continued for at least one year pursuant to TLGC Section 143.073. However, City Council has adopted a current policy which may extend these line-of-duty injury or illness leave provided by TLGC Section 143.073 up to a total two-year period unless a Police Officer request an additional extension and also qualifies for a limited exception. Please see Chapter 10, Occupational Injury Benefits Program for additional details. If the line-of-duty injury leave has expired, the officer may use all accumulated sick leave, vacation

time and other accumulated time before being placed on temporary leave without pay pursuant to TLGC Section 143.073. Officers who are temporarily disabled by an injury or illness that is not related to the person's line of duty may use all sick leave, vacation time, and other accumulated time before the person is placed on temporary leave. Regular sick leave procedures shall apply when a Police Officer uses vacation or other accumulated leave time to extend sick leave.

Any Police Officer who must go off duty on sick leave due to a non-occupational illness or injury shall notify their immediate supervisor. If the Police Officer is unable to report for work due to becoming ill or injured while off duty, the Police Officer shall notify a supervisor at their place of assignment immediately upon becoming aware of the inability to report. If a supervisor is not available, the notification, including a telephone number where the Police Officer can be reached, shall be documented by the person receiving the call and a supervisor shall be informed at the earliest convenience.

When a Police Officer's supervisor is made aware that a Police Officer has called off sick and the Police Officer did not contact a supervisor, the Police Officer's supervisor shall contact the Police Officer. The contact shall be attempted as soon as practicable but, in any event, shall be attempted and each attempt separately documented via Inter-Office Correspondence (IOC) to their Commanding Officer during the first tour of duty the Police Officer is on sick leave.

If the Police Officer is on leave for an FMLA-qualifying personal or family illness, the supervisor shall notify the Medical Records Custodian (MRC) as outlined in the General Orders and these PDPRRs.

## **5.4 Family Illness Leave**

After one (1) year of continuous service Police Officers are eligible to use Family Illness Leave. Family Illness Leave is provided to allow Police Officers time off with pay when their presence is required to assist an immediate family member due to an illness and/or injury, doctor's, dentist, or other medical appointments, or for a death in the immediate family. Family Illness Leave shall be granted only as necessary under the following circumstances:

1. To enable the Police Officer to provide care for a member of the immediate family when such member is seriously ill or injured requiring the care or attendance of the Police Officer.
  - a. For the purposes of this procedure, immediate family is defined as the employee's wife, husband, domestic partner, mother, father, brother, sister, son, daughter, mother-in-law, father-in-law, son-in-law, daughter-in-law, grandson, granddaughter, stepmother, stepfather, stepson, stepsister, stepbrother, stepdaughter, aunt, uncle, niece, nephew, sister-in-law, brother-in-law, grandmother and grandfather, and grandmother-in-law and grandfather-in-law.
2. For the Police Officer to be present during the hospitalization of an immediate family member.

When a Police Officer becomes aware they will be unable to report for work due to circumstances justifying Family Illness Leave, the Police Officer shall, as much in advance as possible, contact and notify a supervisor at the Police Officer's place of assignment. When time permits, this notification shall be made in writing.

Supervisors may require a Police Officer to submit proof of illness, injury, or death of an immediate family member when circumstances indicate a necessity to do so. If proof cannot be provided as required, the request to use Family Illness Leave shall be denied. If the leave has already been used and the required proof is not provided, appropriate disciplinary action shall be initiated.

A Police Officer shall, on a daily basis, keep their supervisor informed of the Police Officer's need to continue on Family Illness Leave unless prior arrangements or FMLA leave was authorized for a specific period of time.

In cases where three (3) or more days of Family Illness Leave will be used, Supervisors are responsible for notifying the Medical Records Custodian (MRC) so FMLA forms can be sent to the Police Officer.

Family Illness Leave is non-accruable. At the beginning of each payroll year, any unused leave from the previous payroll year is deleted from the records new Family Leave is allotted to each eligible employee in accordance with the table below:

<b>1 year service</b>	<b>56</b>
<b>5 years service</b>	<b>40</b>
<b>10 years service</b>	<b>32</b>
<b>15 years service</b>	<b>16</b>
<b>20 years service</b>	<b>0</b>

## **5.5 Family and Medical Leave Act**

The Family and Medical Leave Act (FMLA) entitle eligible employees to take unpaid, job-protected leave for specified family and medical reasons. The Support for Injured Service Members Act of 2007 (also known as Military Family Leave) allows eligible employees to take up to 26 weeks of leave in any 12-month period. Applicable paid leave must be used concurrently with FMLA leave unless no paid leave is available. The 12-month period begins with the first day of FMLA leave. It is not based on the calendar year. The City measures the 12-month period as a rolling 12-month period measured backward from the date an employee uses leave under this policy. When an employee takes FMLA leave, the City subtracts the time taken during the last 12 months from the available leave (12 weeks, or 26 weeks for the care of an injured or ill service member) to determine the balance remaining.

### **5.5.1 Eligibility**

Only eligible Police Officers are entitled to take FMLA leave. An eligible employee is one who:

- Has worked for the City for at least 12 months; The 12 months of employment do not have to be consecutive. That means any time previously worked for the same employer (including temporary or seasonal work) could, in most cases, be used to meet the 12-month requirement. If the employee has a break in service that lasted seven years or more, the time worked prior to the break will not count unless the break is due to service covered by the Uniformed Services Employment and Reemployment Rights Act (USERRA), or there is a written agreement, including a collective bargaining agreement, outlining the employer's intention to rehire the employee after the break in service.
- Has at least 1,250 hours of service for the City during the 12 month period immediately preceding the leave.

### **5.5.2 Leave Entitlement**

Eligible Police Officers may take up to 12 workweeks of leave in a 12-month period for one or more of the following reasons:

- The birth of a son or daughter, or to care for the newborn child;
- or placement of a son or daughter with the employee for adoption or foster care;
- To care for a spouse, son, daughter, or parent who has a serious health condition;
- For a serious health condition that makes the employee unable to perform the essential functions of his or her job; or
- For any qualifying exigency arising out of the fact that a spouse, son, daughter, or parent is a military member on covered active duty or call to covered active duty status.

An eligible Police Officer may also take up to 26 workweeks of leave during a single 12-month period to care for a covered service member with a serious injury or illness, when the

Police Officer is the spouse, son, daughter, parent, or next of kin of the service member. The single 12-month period for military caregiver leave is different from the 12-month period used for other FMLA leave reasons. For purposes of FMLA, serious health condition means an illness, injury, impairment, or physical or mental condition that involves inpatient care or continuing treatment by a health care provider.

For purposes of FMLA, serious health condition means an illness, injury, impairment, or physical or mental condition that involves inpatient care or continuing treatment by a health care provider.

### **5.5.3 Intermittent Leave**

Under some circumstances, Police Officers may take FMLA leave on an intermittent or reduced schedule basis. That means a Police Officer may take leave in separate blocks of time or by reducing the time he or she works each day or week for a single qualifying reason. When leave is needed for planned medical treatment, the Police Officer must make a reasonable effort to schedule treatment so as not to unduly disrupt the employer's operations. If FMLA leave is for the birth, adoption, or foster placement of a child, use of intermittent or reduced schedule leave requires the employer's approval. Examples of intermittent leave include leave taken on an occasional basis for medical appointments, or leave taken several days at a time spread over a period of six months, such as for chemotherapy.

Police Officers taking intermittent leave are required to comply with the department's call-in procedures before taking unscheduled intermittent leave, except in certain emergency cases. Reduced schedule leave is leave based on a modified schedule that reduces the usual number of hours per work week, or hours per work day, that a Police Officer is scheduled to work.

Only the time taken as FMLA leave may be charged against the Police Officer's entitlement when leave is taken intermittently or on a reduced leave schedule. Leave charges are in hours. The hours charged should be cumulative until such time as the total is equivalent to 12 normal workweeks.

The Department can temporarily transfer a Police Officer to an available alternative assignment if the position better accommodates the Police Officer's need for intermittent leave or a reduced schedule. At the Police Chief or designees discretion, a transfer may occur in instances when leave for the Police Officer or Police Officer's family member is foreseeable and for planned medical treatment, including recovery from a serious health condition or to care for a child after birth, or placement for adoption or foster care.

### **5.5.4 City Leave and the FMLA**

Police Officers who use FMLA leave must also use accrued City leave (e.g. Vacation, Sick Leave, and Compensatory Time) that is applicable to the reason for the FMLA leave request, during the time that they are off work on FMLA leave. FMLA leave is used concurrently with appropriate, accrued City leave. For example, if a Police Officer uses FMLA leave to care for a family member, the Police Officer cannot use sick leave or any other leave that can only be used for the Police Officer's illness. It is the Police Officer's responsibility to correctly choose

the type of leave that he or she wishes to use to run concurrently with his or her FMLA leave. The reason for this requirement is so that the Police Officer will continue to be paid while on FMLA leave, to the extent that the Police Officer has sufficient applicable accrued leave available. Police Officers cannot choose to have their FMLA leave be unpaid if they have sufficient applicable accrued leave available to cover all or a portion of the time they are on FMLA leave.

Police Officers approved for FMLA leave who have no accrued City leave are carried in a without pay status and will not accrue leave benefits. Police Officers must use all appropriate, accrued City leave before being allowed to take FMLA leave without pay. Police Officers who are off work for FMLA leave may not work secondary employment or engage in activities that are inconsistent with restrictions as prescribed by the FMLA certification.

### **5.5.5 Spouses Employed By the City**

If spouses are employed by the City, and each wishes to take leave, the combined total leave that the spouses can take for the birth or adoption of a child, placement of a child in foster care, or to care for a parent (but not a parent in-law) with a serious health condition, is limited to 12 weeks.

This limitation does not apply to leave for either spouse's own serious health condition or the serious health condition of a child. If both spouses work for the City and each wishes to take leave to care for a covered injured or ill service member, the spouses may only take a combined total of 26 weeks of leave.

### **5.5.6 Healthcare Benefits Continuation**

The City maintains its responsibilities towards the Police Officer's group health coverage during FMLA leave. The City and Police Officer maintain the same coverage under the same conditions that they would had the Police Officer been working. When the officer is on paid leave, the City will continue to collect healthcare premiums through payroll deduction.

When a Police Officer is on unpaid FMLA leave, the Police Officer must pay his or her required group health contributions to keep their coverage in effect. Police Officers should make payment arrangements with the Human Resources Department Benefits Division. Failure to make required contributions can result in cancellation of the Police Officer's and their dependent's (if any) coverage. The Police Officer is also solely responsible for making payment arrangements directly with any other entity (dental coverage, optional life insurance, employee association dues, Credit Union, etc.) for which payroll deductions are in place. If the Police Officer fails to return from FMLA leave, the City may recover the costs for maintaining the Police Officer's healthcare coverage during the period of time the Police Officer was on FMLA leave. The cost will be deducted from the Police Officer's final check, or billed to the Police Officer if the Police Officer fails to return to work for a reason other than the continuation, recurrence or onset of a the Police Officer's own serious health condition or because of other circumstances beyond the Police Officer's control. Circumstances not addressed by this section should be referred to the Human Resources Department's Employee and Labor Relations Division.

### 5.5.7 FMLA Leave Process

If possible, Police Officers should notify the departmental Medical Records Custodian (MRC) of the need to take leave, identify a qualifying reason for the leave, and state the anticipated timing and duration of the leave prior to FMLA leave beginning. If the leave is not foreseeable, the employee should give notice as soon as practicable using the officer's normal call-in procedures, absent extenuating circumstances. When the MRC receives such notification or if the employee has been off work for three consecutive days, without approved leave, the MRC must:

- Provide the Police Officer with a *Notice of Eligibility and Rights and Responsibility* form (federal form available from the Department of Labor at <https://www.dol.gov/whd/fmla/forms.htm> or contact the Employee and Labor Relations Division for assistance). The notice shall inform the Police Officer if their leave has been determined to be eligible for FMLA protection; as well as inform the Police Officer of their rights and responsibilities for taking FMLA. For Police Officers on intermittent or reoccurring leave for the same incident, this notice will be provided every six months.
- Provide the Police Officer with the appropriate certification form (federal form available from the Department of Labor at <https://www.dol.gov/whd/fmla/forms.htm> or contact the Employee and Labor Relations Division for assistance) within five business days or as soon as practical.
- Upon receipt of the certification (or alternate supporting information such as Worker's Compensation paperwork) the MRC must provide the Police Officer with a *Designation Notice* (federal form available from the Department of Labor at <https://www.dol.gov/whd/fmla/forms.htm> or contact the Employee and Labor Relations Division for assistance). This notice shall inform the Police Officer if their leave has been designated as FMLA protected. The notification must be given within five business days from the time it is determined that the Police Officer's absence would qualify under FMLA. If the certification or supporting information submitted by the Police Officer is incomplete or insufficient, the MRC must use the Designation Notice to state in writing what additional information is necessary to make the certification complete and sufficient. Failure to submit adequate certification within seven calendar days may result in a denial of leave.
- The MRC must enter the start date of the Police Officer's leave; track and code appropriately in PeopleSoft or on a spreadsheet until FML is exhausted.

### 5.5.8 FMLA Leave Exhaustion

Police Officers who qualify for the protections of the Americans with Disabilities Act Amendments Act of 2008 (ADAAA), as amended, may request an extension (either paid or unpaid) of their leave of absence after FMLA leave is exhausted, as a reasonable



accommodation. The Police Chief or designee will review each such request on a case-by-case basis, and confer with the City's ADA Coordinator before making a determination about whether the request for accommodation is reasonable.

If a Police Officer with a non-occupational injury or illness has exhausted available FMLA leave and will not be able to return to work with or without a reasonable accommodation, the Police Officer may be placed on temporary leave after exhausting available leave pursuant to TLGC § 143.073(d).

### **5.5.9 FMLA Fitness For Duty Certification**

As a condition of restoring a Police Officer whose FMLA leave was occasioned by the Police Officer's own serious health condition that made the Police Officer unable to perform the Police Officer's job, the City may require a Police Officer to obtain and present a certification from the Police Officer's health care provider, at the Police Officer's expense, that the Police Officer is able to resume work pursuant to TLGC 143.081 and the Civil Service Commission rules.

Additionally, the City may require that the certification specifically address the Police Officer's ability to perform the essential functions of the Police Officer's job. In order to require such a specific certification, the City will provide the Police Officer with a list of the essential functions of the Police Officer's job and the City will indicate in the designation notice that the certification must address the Police Officer's ability to perform those essential functions. The Police Officer then will be required to provide a certification from the Police Officer's health care provider that the Police Officer can perform all of the identified essential functions of his or her job. A Police Officer has the same obligations to participate and cooperate (including providing a complete and sufficient certification or providing sufficient authorization to the health care provider to provide the information directly to the City) in the fitness-for-duty certification process as in the initial certification process.

## **5.6 Holidays**

The City of Fort Worth observes a regular holiday schedule and also provides Police Officers with personal holidays. When a Police Officer is said to "observe" a holiday, this means the Police Officer is not required to perform work that day, even though the Police Officer is regularly scheduled to work that day.

### **5.6.1 Scheduled Holidays**

The City of Fort Worth observes the following scheduled holidays:

- New Year's Day – January 1
- Martin Luther King's Birthday – the third Monday in January
- Memorial Day – the fourth Monday in May
- Independence Day – July 4
- Labor Day/September 11 Remembrance Day – the first Monday in September

- Thanksgiving Day and Thanksgiving Friday-the fourth Thursday in November and the following day – Friday
- Christmas Day – December 25

The City recognizes two holiday calendars. One calendar is for the City observed holiday and the second holiday calendar is for the actual holiday. Officers shall observe the following City holidays on the actual calendar date of the holiday:

- (1) New Year’s Day
- (2) Independence Day (4th of July)
- (3) Thanksgiving Day
- (4) The Day after Thanksgiving
- (5) Christmas Day

Officers shall observe the following holidays on the City-designated holiday:

- (1) Martin Luther King Day
- (2) Memorial Day
- (3) Labor/9-11 Remembrance Day will be observed on the City-designated holiday.

### **5.6.2 Maximum Holiday Leave Accrual**

Holiday leave accrual is limited to 128 hours. Police Officers may exceed 128 during the calendar year. The limit is applied annually on January 1, and any hours exceeding 128 are forfeited. Maximum payment upon termination of employment is 128 hours.

### **5.6.3 Personal Holidays**

In addition to scheduled holidays, Police Officers receive one personal holiday (PHL) at the beginning of the calendar year. With supervisory approval, a personal holiday can be taken on any scheduled work day, and it may be taken in less than eight-hour increments. If it is not used before the end of the calendar year, the personal holiday is forfeited. Additional personal holidays may be awarded to Police Officers in conjunction with service awards (See Service Award Leave Below).

New Police Officers may not take a personal holiday during their initial probation. Police Officers whose initial probationary period ends during pay period 26 do not receive a personal holiday until the next calendar year. Police Officers who resign their employment or are involuntarily terminated will not be paid for unused personal holidays upon separation from employment with the City.

## **5.7 Leave of Absence Without Pay**

The Police Chief can authorize a Police Officer to take a leave of absence without pay for reasons that benefit both the City and the Police Officer or in cases where an employee has an urgent need for time off (e.g. personal or family member illness or injury or catastrophic damage to residence) and does not have available leave. The Police Officer must submit a written request for leave of absence without pay to the Police Chief or designee. It must outline the reasons for the leave and the amount of time requested.

In extenuating circumstances, the request can be made verbally. The Police Chief or designee either approves or disapproves the request, explaining the decision in writing so as to be in compliance with the requirements of the FMLA, as applicable. Depending on length of the absence, the Police Officer may need to report to the Training Division to participate in any mandatory training missed due to their extended absence.

The Police Chief and designees must be mindful that the Family and Medical Leave Act provides for up to 12 weeks (or 26 weeks in the case of a military caregiver) of unpaid leave for circumstances covered by the Act. The availability of applicable FMLA Leave must be considered when reviewing requests for leaves of absence without pay.

Police Officers will not receive special pay, holiday pay, holiday accrual or accrue any leave benefits (vacation, sick/family illness leave) while in a Leave of Absence Without Pay or unpaid FMLA status. Special pays such as wellness pay will not be paid until the Police Officer returns to work and is no longer in a Leave of Absence without Pay status.

Revocation of a leave of absence may occur if the reason for requesting the leave was misrepresented, or if the needs of the department justify the revocation.

Police Officers are encouraged to update their supervisors on their status and should discuss any changes to their circumstances with their supervisors to make adjustments to the terms of their leave of absence.

Failure to return to work when a leave of absence without pay expires can result in disciplinary action, up to and including indefinite suspension.

Police Officer requests for time off without pay (other than a request for a leave-of-absence-without-pay that is granted by the Police Chief for the mutual benefit of the Police Officer and the City), must be denied if the Police Officer has appropriate and accrued leave or compensatory time available. (This provision does not apply to Police Officers who are off on Military Leave in a without pay status. See *Paid Military Leave* below for information on the leave policy for Police Officers on military leave.) If the supervisor approves time off work, the Police Officer must use all of his or her accrued leave before being placed on a Leave of Absence Without Pay status. See Healthcare Benefits Continuation.

If the supervisor denies the request and the Police Officer does not come to work, the Police Officer will not be paid and the Police Officer can be disciplined for absence from work without approved leave. The Police Officer's time off is then coded as disciplinary time off without pay.

Both exempt and nonexempt Police Officers can be carried in a without-pay status for less than one day with only supervisory approval because of personal reasons or illness or injury. A without-pay status for less than one day does not require Police Chief approval and can occur because:

- Permission to use leave time was not requested,
- The use of leave time was requested and denied, or
- There was no accrued leave time available, or
- The employee chooses to use leave without pay.

## **5.8 Military Leave**

The Uniformed Services Employment and Reemployment Rights Act (USERRA) encourages non-career military service by minimizing employment problems resulting from military service. It minimizes disruption of the lives of service members and prohibits discrimination against service members. Texas statutes have similar laws to protect employees who serve in state military forces, reserves, and search and rescue teams.

Under USERRA, employers cannot deny absences to employees so they can perform military service. Persons protected under the Act include persons who perform duty, voluntarily or involuntarily, in the "uniformed services," which include the Army, Navy, Marine Corps, Air Force, Coast Guard, and Public Health Service commissioned corps, as well as the reserve components of each of these services. Federal training or service in the Army National Guard and Air National Guard also gives rise to rights under USERRA. In addition, under the Public Health Security and Bioterrorism Response Act of 2002, certain disaster response work (and authorized training for such work) is considered "service in the uniformed services." The department may request documentation, such as duty orders, to substantiate the use of military leave. HRIS/Records must be notified via an ePar if a Police Officer is on paid or unpaid military leave.

Promotions and demotions resulting from a military leave of absence and subsequent reinstatement are governed by the terms and conditions outlined in the TLGC, a then-applicable labor agreement, or the FW Civil Commission Rules.

### **5.8.1 Paid Military Leave**

Police Officers can receive up to 15 work days of paid military leave per fiscal year during the entire period of deployment. If absent more than 15 work days for military duty, the Police Officer may request to be placed on leave of absence without pay even if the Police Officer has available leave or may use any accumulated vacation, holiday, personal holiday or compensatory time, if eligible, for leave hours in excess of the 15 work days.

If a Police Officer is placed on leave without pay, the Police Officer does not accrue leave benefits during that time. Military leave time is not counted as hours worked for the purpose of overtime calculation. Military supplement pay may be available upon annual City Council approval.

Military duties include service and training conducted in connection with the Armed Forces Reserves and the National Guard. This includes active duty, active duty for training, initial active duty for training, inactive duty training, full-time National Guard duty, absence for an examination to determine fitness for duty, and absences for performing funeral honor duties. Both voluntary and involuntary duty is covered.

### **5.8.1.1 Paid Military Leave Under Texas Law**

An employee who is a member of the Texas military forces, a reserve component of the armed forces, or a member of a state or federally authorized urban search and rescue team is entitled to a paid leave of absence from the individual's duties on a day on which the person is engaged in authorized training or duty ordered or authorized by proper authority for not more than 15 workdays in a fiscal year.

In cases where military duties covered by federal and state law both apply, paid leave under state law will run concurrently with (and not in addition to) paid leave for federal military duty. Unused military leave does not carry forward from one fiscal year to the next.

During a military leave of absence, the employee may not be subjected to loss of time, efficiency or performance rating, personal time, sick leave, or vacation time. When relieved from duty, the employee is entitled to be restored to the position the employee held when ordered to duty.

An employee who has taken paid military leave may request a statement of the number of workdays for which the employee claimed paid leave in that fiscal year. Requests may be submitted with the departmental/divisional Human Resources Coordinator (HRC) or the Human Resources HRIS/Records Division.

### **5.8.1.2 Military Supplement Pay**

The purpose of Military Pay Supplement is to assist Police Officers that will be absent from their City jobs as a result of being called to active military service on an involuntary basis as a result of national security. Supplemental pay will only be available to military personnel called to active duty for these operations if supplemental pay has been approved by City Council. The intent of this program is to minimize a Police Officers' loss of pay due to involuntary activation into military service. This program is adopted on an annual basis by City Council, and may be discontinued at any time.

Police Officers receiving supplemental pay must:

- be called to active full-time military duty status

- have exhausted all of the 15 days of annual paid military leave (from
- October 1 – September 30)
- be a full-time or reduced schedule non-elected employee on the payroll of the City and a member of the Retirement Fund

Supplemental pay will be provided on a graduated scale for up to one full year (365 calendar days) for Police Officers receiving Military Pay (base pay plus additional pay such as housing allowance, combat pay and other special pay) that is less than 100% of their total City pay (base pay plus additional pay such as assignment pay, incentive pay, shift differential pay, civil service longevity and bilingual pay.) Overtime pay and Holiday Overtime Pay is not factored into the total pay provided by the City.

The Military Pay Supplement will be calculated as follows: for 100% Supplement, subtract the total monthly military salary from the total monthly City salary. If a negative number or zero results, no supplement is provided. If a positive number results, supplement will equal the number. To reconcile the difference in pay schedule between the military and the City, pay rates will be converted to daily rates. Please see the example of how the Military Pay Supplement is calculated below:

*Police Officers' total City pay rate is \$1100/biweekly and the Police Officer's total military pay is \$1800/month.*

- *Step 1: Convert pay to daily amount.*
  - *City daily rate =  $\$1100 \times 26 \div 365 = \$78.35/\text{day}$*
  - *Military daily rate =  $\$1800 \times 12 \div 365 = \$59.18/\text{day}$*
- *Step 2: Calculate the difference between City pay rate and military pay.*
  - *$\$78.35 - \$59.18 = \$19.17$*

*The City of Fort Worth will pay the equivalent to \$19.17/day for up to one full year (365 days), and \$0 for the remainder of time the Police Officer is on full-time military leave.*

Police Officers who were called to Active Duty prior to November 2, 2004, and who are still on Active Duty will receive Military Pay Supplement at the 100% level from November 2 for one full year or until they are deactivated, whichever comes first.

Military Pay Supplemental Benefit shall be renewed with each subsequent activation by a Police Officer. Example: Police Officer is deployed from November 15, 2004 to June 16, 2005, and is then released from active duty. The Police Officer is later reactivated from December 1, 2005 to November 1, 2006. The Police Officer will receive Supplemental Pay Benefit for up to one year for each period of activation.

Police Officers seeking supplemental pay will be required to submit a written request to the department's Human Resources Coordinator (HRC). The written request should contain relevant information needed to calculate the supplemental pay involving military rank, years of service, and additional military pay. Police Officers will also submit a copy of their military orders and provide appropriate documentation of military pay (such as their two most recent pay advices) to receive any supplemental pay.

In the event that the Police Officer is unable to submit the written request for supplemental pay in a timely manner due to deployment or provide proof of all military pay upon activation (e.g., paycheck stub); if a hardship arises and is verified, alternate arrangements will be made to estimate the amount of military pay, subject to verification later. Upon receipt of the appropriate documentation of total military pay, the appropriate amount of underpay or overpay will be calculated for the appropriate time period. Any overpayments will be required to be refunded to the City.

The Police Officer's current health, dental, and high-option life insurance benefits will remain in effect while the Police Officer's leave of absence is being paid with his/her accrued vacation or similar leave. The normal premium contributions will continue to be made by payroll deduction. Police Officers may drop their medical benefits coverage at the time they are called to active duty and may re-enroll upon their return to City employment. They will be reinstated without a waiting period upon their return to employment.

After exhausting his/her accrued leave, or if the Police Officers is no longer on the payroll or the salary difference check is less than the amount of payroll deductions, the Police Officer will be responsible for mailing direct payments for the normal monthly premium contributions for Health, Life and Dental coverage. The Police Officer will also have to make arrangements with the vendors for other voluntary deductions, such as credit union payments, child support and long-term disability.

### **5.8.2 Reemployment Rights**

If a Police Officer leaves City service for active duty in the United States Armed Forces, the Police Officer is entitled to return to City service at the pay rate they would have attained, with reasonable certainty, if they had been continuously employed during the period of service. The Police Officer must have been granted a leave of absence and must return within prescribed time limits to a position in the classification previously held. The prescribed time limits are as follows:

- If training/service is up to 30 consecutive days, the deadline is completion of training/service plus travel time to residence plus eight hours.
- If training/service is 31 to 180 days, the deadline is 14 days after completion of training/service.
- If training/service is 181 days or more, the deadline is 90 days after completion of training/service.

If the leave was more than 30 consecutive days, the City requires that the Police Officer provide documentation to establish that the re-employment application is timely, the Police Officer has not exceeded the limit on duration of service, and the Police Officer's separation or dismissal from the military was not disqualifying.

The types of documents will vary from case to case, but may include Department of Defense (DD) 214 Certificate of Release or Discharge from Active Duty, copy of duty orders prepared by the facility where the orders were fulfilled, letter from the commanding officer, certificate of completion from military training school, discharge certificate showing character of service, or copy of extracts from payroll documents showing periods of service.

Police Officers are allowed to use their vacation and/or compensatory time while on military leave, but they are not required to do so. Federal law prohibits discrimination and/or retaliation against service members who invoke their rights to reemployment after military service.

### **5.8.3 Reemployment Rights Eligibility Criteria**

Service personnel seeking reemployment must meet the following criteria:

- Held a City job when the employee commenced military duty covered by the Act.
- Gave notice to the City regarding absence for military training or service. Requests for leave under USERRA may be made verbally or in writing. The advance notice amount is not specified by the Act, but thirty days' notice is strongly recommended. As much advance notice as possible, written or verbal, is required, unless precluded by military necessity or otherwise impossible or unreasonable.
- Must not exceed the five-year cumulative limit (per employer) on service.
- Must not have been released from service under other than honorable conditions.
- Must report back to City job in a timely manner or make timely application for reemployment.

Military service or training excluded from the five-year cumulative limit includes:

- Instances where the service personnel is unable to obtain release from service/training before expiration of five-year period.
- Instances where it has been determined and certified by the Secretary of the service to be necessary for professional development or for completion of skills training or retraining.



- Involuntary active duty in wartime, national emergency, critical persons during time of crisis, operational mission, and involuntary duty of retired and reserve Coast Guard personnel.
- Active duty service during a war or a national emergency.
- Active duty service in support of a critical mission or requirement of the uniformed services.
- Service performed when called in Federal service as a National Guard member.

The City may not be required to reemploy a person if the circumstances have so changed as to make such reemployment impossible or unreasonable or such employment would impose an undue hardship on the City. Any denial of reemployment must be reviewed by the Employee and Labor Relations Division before notification to the returning Police Officer occurs.

#### **5.8.4 Reemployment Entitlements**

The following reemployment entitlements are available for eligible service members:

- The re-employment of service members must be prompt.
- If absence is less than 90 days, the service member is entitled to placement into the exact job held prior to absence.
- If absence is 91 days or more, the service member is entitled to placement into the exact job previously held or another job of "like seniority, status, and pay."
- Continuation of seniority benefits as if service member had been continuously employed (no break in service).
- Train or re-train service member (if necessary) to permit reentry into the workplace.
- Reinstate personal and family health insurance coverage.
- Make reasonable efforts to accommodate service members disabled during duty. If a service member is convalescing from an illness or injury incurred in the performance of duty, the employee may submit an application for reemployment at the end of the recovery, not to exceed two years.

##### **5.8.4.1 Reemployment Rights Under Texas Law**

The City may not terminate the employment of a Police Officer who is a member of the state military forces of Texas or of any other state because the Police Officer is ordered to attend authorized training or duty.

After release from service, the Police Officer is entitled to return to the same employment held before the service, and may not be subjected to the loss of time, efficiency rating, vacation time, or any benefit of employment.

As soon as practicable after release from service, the Police Officer must give notice of intent to return to work, either in writing or by e-mail. Any denial of reemployment must be reviewed by the Employee and Labor Relations Division before notification to the returning Police Officer occurs.

## **5.9 Jury Duty Leave**

Police Officers called to jury duty on a regularly-scheduled work day may receive paid jury duty leave. Jury duty plus other hours worked in a work week shall never exceed 40 hours. When a Police Officer has worked more than 40 hours in a work week, including jury duty hours, the time coded as jury duty must be reduced by the number of hours over 40 worked in that work week, even if that reduction eliminates all of the jury duty hours. Police Officers must verify their time spent on jury duty.

## **5.10 Blood Bank Donation Leave**

Police Officers can earn up to six hours of vacation leave time in a calendar year by donating blood to the Carter Blood Center during City-sponsored blood drives or by presenting proof of a donation made at an external site. Proof of donation at external sites should be sent to the Human Resources Wellness Division to get credit.

## **5.11 Time Off To Vote**

Because of early voting opportunities afforded citizens, Police Officers should not need time off to vote; however, supervisors may approve time off in unusual circumstances.

Under state law, if the polls are open for two consecutive hours outside of a Police Officer's working hours, an employer is not required to release the Police Officer from work to vote. If the polls are not open for that period of time, Police Officer are allowed to leave work to vote. Their time off is without pay or they may use appropriate accrued leave time or compensatory time.

## **5.12 Pregnancy Leave and Accommodations**

Pregnancy-related absences and job accommodations are governed by the particular leave policies that are applicable, including vacation, sick leave, holiday, personal holiday, compensatory leave, Family Medical Leave Act leave, Voluntary Leave Bank leave and leave without pay.

The City will make reasonable efforts to accommodate any physical restrictions - as determined by the Police Officer's medical care provider - that are related to a Police Officer's pregnancy.

This can include transitional duty assignments. See *Non-occupational Injury/Illness Return To Work (“RTW”) Rules* in chapter 11 for further information.

## **5.13 Voluntary Leave Bank**

The Voluntary Leave Bank program provides for the continuation of income for those Police Officers who have exhausted all of their accrued leave and need to be off due to a personal medical emergency or to care for an immediate family member who has had a medical emergency.

This program is established by employees for the benefit of other employees. Assets of the Program (donated leave hours) belong specifically to the members (who donated) and not to any other organization, group or entity.

### **5.13.1 Eligibility For Enrollment**

Police Officers who are on the payroll of the City, a member of the Retirement Fund, and have completed the probationary period are eligible to participate.

A newly-hired Police Officer may become a member of the Voluntary Leave Bank Program within the first 30 days of their employment, but the Police Officer cannot access the Voluntary Leave Bank until completion of their probationary period. Police Officers who enroll during open enrollment cannot access the Voluntary Leave Bank until May 1<sup>st</sup> of the benefits year for which they are enrolling. A Police Officer who fails to become a member during an open enrollment period may become a member during the next open enrollment period.

### **5.14.2 Eligibility and Access of Voluntary Leave Bank Hours**

Members may be eligible to draw from the Voluntary Leave Bank after exhausting all their accrued leave balances. Members drawing leave have a limit of 240 hours that can be used in any 12-month period. In no case can an employee draw more than 240 hours from the Voluntary Leave Bank for any single occurrence.

Access to the program is not guaranteed by membership; rather, access is based on need of the member and determined by the Voluntary Leave Bank Committee, designated by the Human Resources Director. No one is guaranteed 240 hours; rather, the Committee will review each application on an individual basis.

The Voluntary Leave Bank Committee acts as stewards of the Voluntary Leave Bank whose sole intent is to authorize access only to employees who have a proven medical need (self or family) and who (also) have a history of prudent use of leave time. To that end, each committee member shall have access to the official leave records and may interview the current supervisor and (any) prior supervisor(s) in order to determine prudent use of leave time by the member. Members of the Voluntary Leave Bank Committee sign confidentiality

agreements to affirm their commitment to protecting the privacy of all medical information received through administration of the program.

The Voluntary Leave Bank Committee approves or disapproves the request within ten business days. The member has five business days to respond to any request for information. If disapproved, the Voluntary Leave Bank Committee will notify the requestor of their decision by memo. A disapproval decision by the Voluntary Leave Bank Committee is final.

Members of the Voluntary Leave Bank who are off without pay because of a disciplinary action or who are on approved leave of absence without pay are not eligible to access the Leave Bank. Members off work because of an on-the-job injury (Workers' Compensation) do not have access to the Voluntary Leave Bank. Routine medical care for an employee is not covered by this program.

Police Officers off work cannot accrue leave benefits (vacation, sick, family illness leave) while using Voluntary Leave Bank hours.

Members drawing leave from the Voluntary Leave Bank may not engage in secondary employment work during the time covered by the leave drawn from the Voluntary Leave Bank.

Use of Voluntary Leave Bank hours on an intermittent basis may be granted only if the Voluntary Leave Bank Committee approves intermittent use. The committee may also recommend or approve fewer hours than requested by the member.

Upon returning to work after using leave from the Voluntary Leave Bank, eight hours shall be deducted from a member's accrued vacation leave as soon as the member has accrued eight hours. Accrued vacation leave will reflect the required hours' deduction immediately upon the Police Officer's return to work. Each member may also be required to donate an additional four hours when the Voluntary Leave Bank falls below a minimum level. Human Resources Department records will be used to monitor leave donation and usage. The minimum level is 960 hours. Participating Police Officers will be notified of the need for the additional contribution and must authorize the transfer of additional leave hours. Participating Police Officers who opt not to transfer the additional leave hours will be withdrawn from the Voluntary Leave Bank.

The City Manager may terminate the program if he or she determines that it is not in the best interest of the City of Fort Worth. If the Voluntary Leave Bank is terminated for that reason, the remaining leave in the bank will be used until depleted. If the Voluntary Leave Bank is determined to be operated in violation of any laws, the program will be terminated, and all hours in the leave bank will be forfeited.

## **5.14 Vacation Leave Donations**

Police Officers may donate accrued vacation leave to another employee's donated leave account. No other type of leave or time may be donated. The purpose of the donation is to ensure continuing income for another employee who must be absent from work (continuously or intermittently)

because of a major personal illness or injury or because of an immediate family member's major illness or injury which requires the presence of the Police Officer.

A Police Officer is eligible to receive donated vacation leave if:

- The Police Officer has a major illness or injury as defined in this policy;
- The Police Officer has 40 or less hours of accrued leave;
- The Police Chief approves the request to solicit vacation leave. (Consideration should be given to Police Officer's record of absenteeism, discipline, work performance, tenure, and other relevant considerations); and
- The Police Officer is not on probation.

A major illness or injury includes any medical condition that qualifies under the sick and family illness leave policy. Appropriate medical certification must be provided for Police Officers or equivalent documentation for immediate family members.

All donations submitted after the amount of time needed has been met or after the response deadline will be returned to the donors and their time will not be transferred. Unused donated leave will be transferred to the voluntary leave bank. Donated vacation hours will be donated on an equal basis and will not be prorated even if the salaries of the donators and recipients differ.

To be eligible to donate vacation leave, a Police Officer must have completed their initial probation and must have a balance of 80 hours of accrued vacation leave after the donation. Donated vacation leave does not count toward the number of hours required that an Police Officer must “use or lose” under the vacation leave policy.

## **5.15 Service Award Leave**

Police Officers receive an additional 8 hours of personal holiday leave beginning with 15 years of service and in 5 year increments thereafter. See [Annual Employee Service Awards](#) in chapter 8 of this policy manual for more information about leave associated with receiving a Service Award.

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# 6. Benefits

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## 6.1 Purpose and Introduction

The City of Fort Worth understands that the health and well-being of its Police Officers and their families are vital to ensuring a strong, productive, and dedicated employee base. As such, the City currently offers a variety of benefits to eligible Police Officers and retirees and their eligible dependents. This chapter will describe available benefits.

The City's personnel policies, including the benefit policies in Chapter 6, DO NOT CONSTITUTE A CONTRACT. Any compensation and/or benefit policies explained in these regulations are subject to review at least annually by City Council and are subject to change at any time. If any labor agreement expires or is terminated, City Council reserves the right to implement any compensation and/or benefits that it considers appropriate at that time.

For questions about this chapter, please call the Benefits Manager in the Human Resources Department.

## 6.2 General Benefits Information

The City contributes toward the cost of some benefits, such as retirement, medical benefits, life insurance, and the Employee Assistance Program (EAP). In addition, the City makes other benefits available to Police Officers, although the City does not contribute toward the cost; examples of these types of benefits include dental insurance and disability insurance.

More complete information regarding available benefits can be found by contacting the Benefits Division of the Human Resources Department or by consulting available benefits guides and plan summaries, and the *HR Benefits webpage*. Benefits information is generally provided to each employee at orientation and is also available from Human Resources on request.

With very limited exceptions, the City can make changes to its benefit offerings at any time; these changes could include discontinuing benefit programs or changing the rates at which the City contributes toward benefit costs. In general, employee benefits, except for previously accrued retirement benefits, are not guaranteed to continue, and City contributions to any benefit program are subject to sufficient funds being available and allocated in the annual budget process.

## 6.3 Medical Benefits For Police Officers

The City provides medical benefits to eligible individuals in the form of a self-funded group medical plan, which is administered by a third party.

### **6.3.1 Police Group Medical Plan**

The group medical plan provides coverage for qualified doctors' visits, hospital stays, and pharmaceuticals. Please check your benefit guides and plan summaries for more information regarding group medical plan options for general employees.

The participating Police Officer and the City both contribute to the cost of participation. The participating Police Officer may pay co-pays, deductible and a coinsurance depending on which plan option the participant selects.

### **6.3.2 Health Savings Account**

A Police Officer who enrolls in the City's high-deductible health plan (HDHP) is provided with a Health Savings Account (HSA) that can be used to pay eligible health care expenses. The City contributes to the Police Officer's HSA in an amount determined by the City each year, and employees can also make contributions. Police Officer contributions may be deductible depending on the Police Officer's individual circumstances and subject to maximum contribution limits set by the federal government. Police Officers are advised to contact a professional for assistance with tax-related questions.

A Police Officer's HSA belongs to the Police Officer, who can take the account with him or her on termination or retirement. Balances in the HSA can be carried forward from year to year.

Police Officers enrolled in the HDHP with an HSA are not eligible to participate in a Flexible Spending Account for health care expenses. (See section "Flexible Spending Accounts" below for more information.)

## **6.4 Flexible Spending Accounts For Police Officers**

The Flexible Spending Account (FSA) Plan is not available to a Police Officer who enrolls in a qualified high deductible health plan. It allows a Police Officer to set up one or more accounts to pay for certain eligible expenses using pre-tax dollars. The FSA Plan is governed by Section 125 of the Internal Revenue Code. If participating in the FSA Plan, a Police Officer will designate an amount to be deducted from wages and placed into the account(s) for use in paying for certain health care, dependent care, and adoption-related expenses.

Eligible expenses must be incurred during the plan year (January 1 through December 31), and all claims for reimbursement must be received on or before March 31 of the following year. If the entire balance of the account(s) is not exhausted by claims for reimbursement submitted before the deadline, remaining balance in the account(s) that exceeds the rollover limit will be lost.

A Police Officer participating in the high-deductible health plan with a health savings account (HSA) is not eligible to participate in the FSA for health care expenses. (See section “Medical Benefits” above for more information.)

## **6.5 Dental Insurance For Police Officers**

The City offers eligible Police Officers access to dental insurance offered by a third-party insurance company. Premiums for dental insurance are the sole responsibility of the participant and are deducted from wages on a pre-tax basis. The City does not contribute to the cost of participation.

## **6.6 Life Insurance For Police Officers**

The City provides each active Police Officer a basic term life insurance policy at no cost to the Police Officer. Police Officers may purchase additional/supplemental life insurance through the City. The City does not contribute to the cost of the supplemental life insurance policy.

## **6.7 Employee Assistance Program For Police Officers**

The City offers an Employee Assistance Program (EAP) to all active Police Officers and their dependents. The EAP offers individuals the opportunity to consult with professional service providers to help resolve personal problems. Services under the EAP are limited to a specified number of appointments per year. Ongoing assistance beyond the EAP limits may be available as part of the City’s medical benefits depending on the situation and applicable coverage.

## **6.8 Critical Incident Stress Management (CISM) For Police Officers**

In the event of a catastrophic incident at the workplace (such as a robbery, assault, or injury or death of an employee), the Employee Assistance Program (EAP) will make available an on-premises EAP provider of crisis counseling.

## **6.9 Wellness Services Program For Police Officers**

The City of Fort Worth offers a Wellness Program to promote physical and mental health and wellbeing and to provide opportunities for increased health and wellbeing through education and positive lifestyle changes. Information about upcoming classes is included in the City’s electronic employee newsletter (The Roundup) and available through the Wellness Division of Human Resources.

### **6.9.1 Participation Guidelines**



The following participation guidelines are intended to allow Police Officers to have equal access to Wellness program benefits and to maintain proper work coverage at all times.

Hours spent participating in a Wellness class or program does NOT count as hours worked. Participation in programs/classes by Police Officers during work hours is solely at the supervisor's discretion.

In the event that a section/division/workgroup cannot allow all interested Police Officers to participate due to the number of requests received, the supervisor will be responsible for maintaining a rotation list to ensure proper work coverage and equal participation opportunities for all Police Officers.

Participation in wellness activities is voluntary, and therefore, the City is not liable for injuries sustained by Police Officers during their participation in these activities. As a general reference, injuries that occur during non-pay status are not compensable. Non-pay status consists of time before work, after work, and non-paid time during the workday. Prior to participating in Wellness program physical activities, Police Officers will be required to sign a liability release form. The signed release forms will be kept in wellness program files. It is the Police Officers' responsibility to consult with their physician before beginning any wellness program that may contain physical activity. Any proposed changes in work schedules for participation should be reviewed in advance by the appropriate timekeeping staff to ensure compliance with applicable work-hour laws and the terms and conditions of any then-applicable labor agreement.

## **6.10 Disability Insurance For Police Officers**

Police Officers may elect to purchase long-term disability insurance through the City. The City does not contribute to the cost of long-term disability coverage.

## **6.11 Deferred Compensation Plan For Police Officers**

The City offers a deferred compensation plan that allows a Police Officer to direct that a portion of his or her wages be placed into a savings/investment account for use in retirement. This plan (also known as a "457 Plan" because it is subject to Section 457 of the Internal Revenue Code) is administered by a third party. Generally, the City does not contribute to the 457 Plan.

## **6.12 Other Voluntary Benefits For Police Officers**

The City also offers Police Officers access to certain other voluntary benefits. The City does not contribute to the cost of these other benefits. The City may continue to offer other voluntary benefit products in the future. Contact the Benefits Division of Human Resources to find out more about other voluntary benefits that may be available.

## **6.13 Benefits Effective Date**

Medical benefit coverage and dental insurance coverage (if elected) begin (i) one month after an Police Officer's first day of work at the City or (ii) on the date of a "life-changing event" that is the basis for an existing Police Officer electing to add coverage. (See *Electing and Changing Benefits* below for information on changes in coverage.)

The effective date for other benefits will vary depending on the particular benefit and the rules of the third-party benefit provider or administrator. Contact the Benefits Division of Human Resources to find out more information about when your benefits will begin.

## **6.14 Electing and Changing Benefits**

As part of the orientation process, new Police Officers are informed about all available benefit programs. Police Officers must make their selections at orientation or within 30 days of starting work with the City.

All City benefits operate on a "plan year" that runs from January 1<sup>st</sup> through December 31<sup>st</sup>. After initial selection, benefits can generally only be changed during the designated annual open-enrollment period, during which a participant elects their benefit options for the following plan year.

However, changes can be made outside of the open-enrollment period if a "life-changing event" occurs. Examples of "life-changing events" include marriage, divorce, birth or adoption of a child, death of a dependent, loss of outside group health coverage, and change in employment status. A full definition of the term can be found in the *Glossary*.

In general, a covered individual who wants to revise his or her benefits coverage because of a life changing event must do so within thirty (30) days of the event occurring. However, if the event is the birth or adoption of a child, an employee has up to sixty (60) days to make the election.

## **6.15 Proof of Dependent Eligibility**

Proof of eligibility must be provided in order to enroll a dependent. In addition, the City periodically performs audits to ensure that all enrolled dependents meet eligibility criteria, and proof of eligibility may be required in connection with this type of audit.

Proof of eligibility may include social security numbers, birth certificates, hospital certificates of live birth, divorce decrees, adoption papers, guardianship papers, income tax returns, marriage licenses, or other reasonable documentation as requested by the City.

## **6.16 Benefits After Employment Termination**

### **6.16.1 Medical Insurance After Termination**

Medical coverage ends at the end of the month in which the Police Officer terminates unless the Police Officer is qualified to continue coverage and elects to continue coverage.

A Police Officer who is either (i) receiving or (ii) in process to receive City of Fort Worth retirement benefits at the time of termination is eligible for medical coverage through the City in retirement. The Police Officer has 60 days from termination date to enroll him/herself and eligible dependents into the medical benefits plan; failure to do so will prevent any enrollment in the future. A Police Officer who is not (i) receiving or (ii) in process to receive City of Fort Worth retirement benefits at the time of termination is not eligible for medical coverage through the City. It is recommended that a Police Officer notify the Benefits Division of Human Resources at least 60 days prior to the effective date of retirement to allow for a smooth transition.

A Police Officer who began working at the City before January 1, 2009, and is either (i) receiving or (ii) in process to receive City of Fort Worth retirement benefits at the time of termination from the City, is provided access to medical benefits upon termination, and the City contributes toward the contribution costs. The amount of contribution varies depending on a number of factors. A Police Officer who began working at the City on or after January 1, 2009, only has access to retiree medical coverage.

The City does not contribute to medical benefit costs for such an individual, and he or she must pay 100 percent of the contribution costs in order to participate in the medical benefits plan.

Upon separating from the City an individual may elect to continue receiving medical coverage through COBRA. (See section *Continuing Coverage Under COBRA* below for further details.)

Healthcare coverage is not a contractual right, and the City makes no guarantee regarding future coverage. The City may change or discontinue health benefits for current employees and retirees at any time. Additionally, City contributions to medical coverage are not guaranteed and are contingent on sufficient funds being allocated in the City of Fort Worth's annual budget each fiscal year.

Refer to the applicable benefit guides or contact the Benefits Division of Human Resources to determine your eligibility for continuing medical coverage after termination or retirement.

## **6.16.2 Dental Insurance After Termination**

A Police Officer who is either (i) receiving or (ii) in process to receive City of Fort Worth retirement benefits at the time of termination may continue accessing third-party dental insurance through the City.

The individual has 60 days from the date of termination to enroll him/herself and eligible dependents in the dental plan. In addition, a retiree has the option each year during the annual open enrollment period to add, change, or discontinue dental insurance. The City does not contribute to the cost of dental insurance.

### **6.16.3 Continuing Coverage After Termination Under COBRA**

Upon termination from the City, an individual may be eligible to obtain continued medical or dental insurance coverage for a limited period under COBRA if certain criteria are met.

The City's COBRA administrator will send all separated Police Officers information about options available under COBRA within 14 days after the COBRA administrator receives notice of a former employee's separation from the City. Separated Police Officers have 60 days after the date he/she receives the notice of the right to continue coverage to submit an application requesting COBRA coverage.

No City subsidy is provided for COBRA coverage.

### **6.16.4 Life Insurance After Termination**

The City-provided basic life insurance coverage generally ends on the effective date of an individual's termination from the City. An individual can convert his or her City-provided life insurance policy to an individual policy in order to continue coverage after terminating from the City. The individual must call the life insurance provider or the Benefits Division to request the conversion form and information about the cost of premiums. Completed conversion forms must be submitted within 31 days of the termination date.

An individual who is under the age of 60 and has been classified as being disabled from his/her own occupation on a permanent or temporary basis may have his/her life insurance premiums waived. If the premium waiver is granted, the individual retains the same level of basic term life insurance coverage at no cost.

Police Officers may contact the Human Resources Benefits Division for details about applying for a premium waiver.

### **6.16.5 Deferred Compensation Plan After Termination**

If a Police Officer is enrolled in the City's deferred compensation (i.e., 457 Plan) prior to termination, the employee has three options with respect to existing account balance:

- Leave the money in the current 457 account(s).
- Rollover all or a part of the funds to an individual retirement account (IRA) or to another employer's plan.
- Take a distribution (withdrawal) from the account(s), subject to any applicable tax and penalty.

An individual should contact the third-party administrator of his or her 457 account to ensure completion of all required paperwork prior to the Police Officer's separation date.

An individual participating in the 457 Plan may request that all or a portion of terminal leave pay be deposited into the 457 account. Such a request must be received by the Human Resources Benefits Division prior to the effective date of the individual's separation from the City. Failure to timely submit a request will result in its rejection.

#### **6.16.6 Flexible Spending Accounts After Termination**

A Police Officer who is participating in the Flexible Spending Account (FSA) Plan at the time of termination from the City can continue to incur eligible expenses chargeable to or reimbursable from that person's flexible spending account(s) through the effective date of termination.

If the individual timely elects to continue their FSA participation through COBRA, he or she will be able to continue to incur eligible expenses through December 31st of the year in which the individual terminates from the City.

All claims for reimbursement related to flexible spending accounts must be received on or before March 31<sup>st</sup> of the year following the year in which the expense was incurred.

#### **6.16.7 Voluntary Insurance and Benefits After Termination**

Final premiums and contributions for all voluntary insurance and benefits are taken out as a payroll deduction from an individual's final pay. To continue coverage after termination, the individual must contact each benefit provider prior to termination to arrange for alternate billing.

#### **6.16.8 Wellness Services Program For Retirees**

The City of Fort Worth offers a Wellness Program for retirees on the City’s health insurance (and their spouses) to promote physical and mental health and wellbeing and to provide opportunities for increased health and wellbeing through education and positive lifestyle changes. Information about upcoming classes is available through the Wellness Division of Human Resources.

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## 7. Performance Management

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## **7.1 Purpose and Introduction**

The City's performance appraisal process is designed to provide supervisors a means to: (1) assess and document Police Officers' work performance; (2) explain expectations; (3) determine whether Police Officers' work efforts are meeting City and department goals; (4) inform Police Officers if they have performance deficiencies and make suggestions for improvement; and (5) recognize exceptional performance and/or accomplishments.

For questions about this chapter, please call the Performance and Budget Department.

## **7.2 Performance Appraisal**

TLGC, Chapter 143.082 requires semiannual efficiency reports (performance appraisals) and grades. The annual performance review serves as one efficiency report. New Police Officers are formally evaluated during their time in the police academy and their one-year probationary period. Supervisors and Police Officers are encouraged to establish the objectives to be rated during the coming year, the performance standards to be used, and the way their job should be accomplished.

It is the responsibility of the Police Officer's supervisor to complete the performance appraisal. The official City appraisal form must be used. Prior to the beginning of the performance period, the supervisor should establish job objectives for the Police Officer. The supervisor should meet with the Police Officer to review the objectives, the performance standards to be used in evaluating the Police Officer, and the way their job should be accomplished.

Every six months, the supervisor will prepare a performance appraisal for the Police Officer. Performance appraisal ratings need to be well supported by the narrative feedback included in the appraisal and should be focused on behavioral observations rather than judgmental statements or feelings.

The supervisor will meet with the Police Officer to discuss the performance appraisal. At the end of the meeting, the Police Officer will be asked to sign the appraisal document. The Police Officer's signature indicates the Police Officer has acknowledged and received the evaluation, but does not necessarily indicate the Police Officer's agreement with its content.

A Police Officer may write a statement concerning the performance appraisal within 10 calendar days of receiving the performance appraisal. The statement will be placed in the Police Officer's civil service personnel file with a copy of the performance appraisal. Comments may be written directly on the form, or can be submitted on additional sheets, which will be attached to the document for filing.

## **7.3 Performance Pay Increases For Appointed Officers**

The Pay for Performance program provides performance-based pay raises for Police Officers in appointed positions. In years when the program is included in the adopted budget, supervisors will recommend performance raises that are commensurate with the Police Officer's performance

results in the previous fiscal year. The City's fiscal year is October 1-September 30. Recommendations are subject to approval by the Police Chief.

### **7.3.1 Eligibility For Pay For Performance**

To be eligible for the program a Police Officer must be in an appointed position as of March 31st of the most recent fiscal year.

A Police Officer is not eligible for the program if he or she meets one or more of the following criteria:

- Was appointed to Assistant Chief, Deputy Chief, or Commander between April 1st and September 30th of the most recent fiscal year
- Was appointed to Assistant Chief, Deputy Chief, or Commander between April 1st and September 30th of the most recent fiscal year and received a raise of 10% or more
- Received a special merit increase of more than 5% during the most recent fiscal year.
- Received an involuntary demotion during the most recent fiscal year.

### **7.3.2 Pay For Performance Considerations**

Performance Pay for Police Officers receiving acting pay:

If a Police Officer in an appointed position is receiving acting pay at the time of the pay raise, the percentage increase will be based on the Police Officer's regular pay rate rather than the acting pay rate.

Performance Pay for Police Officers who are paid above the top of the pay range:

If a Police Officer's regular pay rate is higher than the maximum of their pay range, the Police Officer will be eligible for a lump sum payment rather than an increase to their pay rate. The lump sum will be calculated by multiplying the supervisor's recommended percent increase by the maximum pay rate for the pay range.

Employees on Military Leave:

A Police Officer who was on military leave during the performance year will be considered for a performance raise in accordance with Uniformed Services Employment and Reemployment Rights Act (USERRA) requirements.

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## **8. Employee Development,**



# Incentives and Training

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## 8.1 Purpose and Introduction

The City of Fort Worth is committed to the development and training of its Police Officers and providing opportunities for professional and personal growth to promote the City’s mission of “Working together to build a strong community.” The City has a responsibility to provide programs that will strengthen and improve the knowledge, skills, and abilities necessary for Police Officers to perform assigned functions, educate Police Officers about City policies, encourage personal growth, and assist supervisors and Police Officers in complying with policies, practices, and laws. Training needs are identified through discussions with supervisors and Police Officers, surveys and feedback, observations, and critical needs. The City strives to evaluate and assess its training programs and opportunities on a continual basis to ensure that specified training needs are being met. Supervisors may also consider training and development activities in performance evaluations.

The City of Fort Worth desires to demonstrate its appreciation for its Police Officers and provides incentives, when possible and appropriate, such as tuition reimbursement and certification pay, to assist Police Officers who desire to enhance their productivity and effectiveness in performing their assigned duties.

General in-house and on-site training is provided by the Human Resources and/or Performance and Budget Departments. Department Funds may be made available so that Police Officers, with supervisory approval, can attend seminars, workshops, and training opportunities to develop and increase their work skills and abilities.

For questions about training or employee service awards, call the Performance Administrator in the Performance and Budget Department. For questions about tuition reimbursement, call the HR Manager for Benefits.

## 8.2 Tuition Reimbursement Policy

The Tuition Reimbursement program addresses the City’s commitment to Police Officer growth and development. Reimbursed tuition must be directly related to a Police Officer’s current job or to a position with the City that requires the educational preparation. The Human Resources Department determines whether the courses taken are related or required as part of the job. Expenses related to law and religious degrees are not eligible for reimbursement, and other doctorate degrees are eligible for only partial reimbursement.

Funding for this program is subject to City Council approval and is limited to the fiscal year in which funds are budgeted unless otherwise required by a then-applicable labor agreement. In years when the program is funded, Police Officers who meet the program criteria will be reimbursed for eligible expenses up to the individual Police Officer cap. Information on the individual cap and tuition reimbursement process is available by contacting the Benefits Division of the Human Resources Department.

Applicants must submit a completed application to a designated Human Resources Department representative for review and verification of eligibility. The approval of a course or a degree plan is not a guarantee of a promotion or obtaining a position that requires or uses the training. Information regarding the tuition reimbursement application process and deadlines is available by contacting the Benefits Division of the Human Resources Department.

### **8.2.1 Reimbursement Payback Provisions**

A Police Officer who receives an overpayment or incorrect amount of reimbursement is required to notify the Benefits Division of the Human Resources Department within 14 calendar days of receipt of the erroneous reimbursement. Police Officers are responsible for monitoring their pay advices and verifying reimbursement amounts. Police Officers are also expected to repay the City any overpayment. It is the responsibility of any participating Police Officer to timely notify the Benefits Division of an overpayment. Failure of a Police Officer to timely notify the Benefits Division of an overpayment may result in disqualification from receiving future tuition reimbursements and/or disciplinary action, up to and including indefinite suspension.

Overpayment reimbursement may be deducted from a Police Officer's pay check and/or final pay check with the Human Resources Director (or designee) approval. Police Officers will be notified by the Benefits Division of any pending payroll deductions in regards to tuition reimbursement payback prior to the payroll deduction. Overpayment amounts deducted from pay checks cannot cause a Police Officer to be paid less than minimum wage.

If a Police Officer resigns or is involuntarily terminated before completing a course, the City is not obligated to pay reimbursement. A Police Officer who voluntarily terminates, resigns, or retires within 12 months after receiving tuition reimbursement must repay 100% of the reimbursement. A Police Officer who voluntarily terminates, resigns, or retires within 13 months to 2 years (24 months) after receiving tuition reimbursement must repay 50% of the reimbursement.

A Police Officer who is involuntarily terminated or terminated because of a reduction in force, medical disability, or as a result of occupational injuries or illnesses is not required to repay the money received for educational reimbursement and is not subject to the payback provision.

### **8.2.2 Eligibility Requirements For Tuition Reimbursement Program**

A Police Officer may qualify to receive reimbursement for one degree at each level while employed with the City. For example, a Police Officer may receive tuition reimbursement for one degree at the high school/GED level, one degree at the associate level, one degree at the undergraduate (bachelors) level, and one degree at the graduate (masters) level. Degrees that

may have been obtained prior to City employment will not impact eligibility for tuition reimbursement during employment. For example, if a Police Officer has obtained an undergraduate degree prior to employment, they may still be eligible for tuition reimbursement for an additional undergraduate degree while employed with the City if other eligibility requirements are met.

Doctorate level degrees (Ph.D.) are covered only if in a scientific field (chemistry, biology, forensics, etc.) and highly related to the Police Officer's current classification with the approval of the City Manager or designee. Doctorate level degrees in Law (J.D.) are not covered. Undergraduate, graduate and doctorate-level degrees in religion are not eligible for reimbursement.

The requirements for a Police Officer to apply for education reimbursement are:

- Must be a regular, full-time Police Officer participating in the City's retirement fund.
- Must have successfully completed their initial probation and any extended probation.
- Cannot currently be on disciplinary probation or have received a Performance Improvement Plan (PIP) during the most recent performance evaluation.
- Must have the approval of their supervisor and Human Resources before attending the course.
- Cannot have any outstanding amounts on previous reimbursement overpayments

To be eligible for reimbursement for an undergraduate course, a Police Officer must attain a course grade of "C" or higher in a graded course, or a "pass" grade in an ungraded course.

To be eligible for reimbursement for a graduate course, a Police Officer must attain a grade of "B" or higher in a graded course, or a "pass" grade in an ungraded course.

All course work must be taken while off duty. When there is an unavoidable conflict between class and job responsibilities, a supervisor may make a reasonable effort to accommodate the class schedule. Any accommodation of a Police Officer's class schedule is at the supervisor's discretion.

Courses that are not eligible for reimbursement under this program are: (1) Seminars and conferences that meet for two weeks or less; (2) Seminars, training and review courses that deal with professional certifications or licensing; (3) audited courses or for noncredit, continuing education courses for which there is no grade; and (4) credits obtained by the College Level Examination Program (CLEP).

The department may reimburse Police Officers for classes that are not eligible for reimbursement, such as short seminars, review courses or certifications, dependent on budgetary considerations and consistent with departmental policy and practice.

Fees and expenses other than tuition and mandatory, course-related fees, such as books, supplies, computers, tablets, parking fees, health insurance fees, and room and board, are excluded from reimbursement under this program.

Incomplete forms or forms without all required documents attached will not be processed. Forms and requests turned in beyond the published deadline will not be approved, processed or paid.

College programs such as mini-terms/sessions, distance learning or quarters that are not set on a semester basis are eligible for reimbursement if they are job-related or part of a degree program and are taken for credit. The Police Officer must meet the established application deadline for the spring, fall or summer semester that precedes the course.

Courses must be taken at an accredited school, junior college, college, university, technical or trade school. (See *Glossary* for definition of accredited school.)

### **8.2.3 Administration, Payments, and Maximum Reimbursement**

Tuition Reimbursement is paid only once for each approved course. Reimbursements are made as soon as practicable after receipt of the required paperwork.

A Police Officer who receives financial assistance for their education from another source must disclose the source and amount on the Tuition Reimbursement Application. The City does not pay for tuition and mandatory fees paid by other sources, such as scholarships, grants, Veterans benefits or other subsidies. Any Police Officer who receives reimbursements from the City for expenses that were paid by other sources must pay back 100 percent of those funds before becoming eligible for any future reimbursements from the City.

The City's total tuition reimbursement cannot exceed the Police Officer's education expenses.

### **8.2.4 Tuition Reimbursement Appeals**

If a Police Officer requests tuition reimbursement and the request is denied by the Police Chief, the Police Officer can contact the Human Resources Manager for Talent Acquisition to try to resolve the dispute. The HR Manager for Talent Acquisition will discuss the dispute with the Human Resources Director. If the Human Resources Director disagrees with the Police Chief's decision to deny a Police Officer's request for tuition reimbursement, the Police Chief and the Human Resources Director will work to reach a solution. If the Police Chief

and the Human Resources Director cannot agree, the Human Resources Director will discuss the appeal with the Assistant City Manager (ACM) over Public Safety. The final decision on the appeal is made by the ACM according to the provisions of this Tuition Reimbursement Policy.

## **8.3 Annual Employee Service Awards**

The Annual Employee Service Award recognizes Police Officers' tenure and dedication to service. One way to show this appreciation is by recognizing years of service with the City. Continuance of this and any employee recognition program is dependent on fund availability in each fiscal year's budget.

### **8.3.1 Eligibility**

Police Officers participating in the City's retirement fund become eligible for Service Awards at five-year intervals beginning with their fifth anniversary. Awards are based on hours worked and must equal full-time service.

### **8.3.2 Presentation**

Police Officers eligible for a Service Award will receive from the City a Service Pin or equivalent award. The Service Pin or equivalent is presented by the Police Chief or designee in a manner approved by the Police Chief.

Police Officers who are eligible for a 15-year Service Award, are also awarded one service award personal holiday at the beginning of the year in which they reach the 15-year service time milestone. Police Officers will subsequently receive one service award personal holiday every five years following the 15-year Service Award in addition to the regular personal holiday all eligible employees receive. For example, a Police Officer who has worked for the City for 20 years will receive two personal holidays that year, but will only receive one personal holiday for their 21st, 22nd, 23rd, and 24th years. They will then receive an additional service award personal holiday on their 25th year. The service award personal holiday must be used by the end of that calendar year. This is in addition to the personal holiday given to all Police Officers as part of leave benefits. (See *Personal Holidays* policy in Chapter 5 for further information.)

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# 9. Occupational Health & Safety Program

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## **9.1 Program Purpose and Introduction**

The City is committed to providing a safe and productive work environment and strives to protect all Police Officers. This is accomplished through the City's Occupational Health & Safety Program which strives to save lives, prevent workplace injuries and illnesses, and protect the health and safety of all Police Officers. This program provides guidelines for workplace safety and preventing illness and injury at work; governs compliance with safety-related policy and practice; prescribes training customized for avoidance of workplace dangers in different types of work environments; and enacts proactive measures to continually increase safety awareness and compliance according to observed trends.

### **9.1.1 Role of Human Resources Risk Management Division, HR Risk Management**

The Risk Management Division, Human Resources Department (HR Risk Management) administers the City's Safety Program and establishes requirements, rules and procedures applicable to all City employees, including Police Officers, for the effective administration of the program.

HR Risk Management has the authority to establish a centralized safety committee, provide safety training programs, and conduct routine accident investigations, safety inspections, and safety program audits to ensure program compliance, and to temporarily suspend work activities at any Police Department work site that is deemed an imminent danger to the health and safety of Police Officers and/or the general public.

### **9.1.2 Role of Police Chief**

In regards to the Police Department's Safety Program, the Police Chief shall be responsible for the following:

- Appoint a professional-level individual to serve as the Police Department's Safety Coordinator (PDSC) and/or appoint one or more qualified full-time safety professional(s).
- Develop and maintain a Police Department-specific occupational health, safety and accident prevention plan(s) in accordance with HR Risk Management requirements.
- Include in the Police Department's operating budget adequate funding for safety programs and training, personal protective and other safety equipment.

Consult with the HR Risk Management to establish a Police Department Accident Review Board (ARB). The Police Department should work with HR Risk Management regarding ARB processes as needed. Please see policy regarding the *Accident Review Board* in this chapter below or call the HR Risk Management for further information.

### **9.1.3 Police Department Safety Coordinator (PDSC) Responsibilities**

After appointment by the Police Chief, PDSCs shall be responsible for the following components of the City's Safety Program:

- Serve as the liaison between the Police Department and the assigned HR Risk Management in HR Risk Management regarding Police Officer occupational health and safety matters.
- Assist the Police Chief to develop and maintain the Police department's safety and accident prevention plan(s) in accordance with Risk Management Division requirements. The department's plan(s) must be approved by the Risk Management Division and by the Police Chief.
- Attend mandatory monthly citywide Safety Coordinators Meeting organized by HR Risk Management. The meetings will be chaired by HR Risk Management's Safety Manager. The meeting will be used to communicate safety policies and procedures and other safety related materials.
- Work with Police Officers' chain-of-command to perform job safety analyses on hazardous equipment, hazardous work duties, and hazardous work sites.
- Provide and/or coordinate safety training and establish safety training schedules for Police Officers.
- Establish workplace safety inspection reports and schedules for the Police Department.
- Serve as a professional safety resource to the Police Department's accident review board.
- Maintain all records of safety training, safety inspection reports, and accident investigation reports in accordance with Risk Management Division requirements and city records retention schedules.
- Provide quarterly and annual accident reports and statistics to the Police Chief and the Executive Bureau, to include suggestions for future accident prevention.

#### **9.1.4 Authority of Police Department Safety Coordinator (PDSC)**

PDSCs shall have the authority to: conduct routine accident investigations; conduct safety inspections and safety program audits to ensure program compliance; require safety training for Police Officers; and temporarily suspend work activities at any Police Officer work site that is deemed an imminent danger to the health and safety of Police Officers.

#### **9.1.5 Role of Police Officer's Chain-of-Command**

### **9.1.5.1 Duties and Responsibilities for Ensuring a Safe Workplace**

Police Officers' chain-of-command shall be responsible for the following in regards to the Police Department's Safety Program:

- Ensure that new Police Officers receive an initial orientation regarding how to safely perform their job duties before the Police Officer is allowed to perform the job. The chain-of-command shall not allow Police Officers to perform work for which the Police Officer has not received training for safe performance of the job.
- Provide repeat and documented (including Police Officer acknowledgement) safety training to Police Officers as necessary or required.
- Require Police Officers to use and properly maintain safety equipment, including required personal protective equipment, safety apparel and uniforms. The chain-of-command shall not require or allow Police Officers to work without appropriate safety equipment and personal protective equipment to safely perform the job.
- Require Police Officers to maintain equipment according to manufacturer recommendations and recommended maintenance schedules.
- Require Police Officers to visually inspect equipment prior to use.
- Communicate to Police Officers the requirement that Police Officers must promptly report all accidents and injuries within 24 hours or the beginning of the next shift following the accident/injury.
- Hold Police Officers accountable for their safe job performance.
- Promptly investigate all accidents in accordance with established procedures and requirements. Police Officer's chain-of-command is expected to also use judgment and discretion in determining appropriate actions, including a recommendation of disciplinary action, considering findings from the Accident Review Board (ARB) or other entities.
- Notify the PDSC and the Police Department Medical Records Custodian (MRC) within 24 hours of each accident and injury to subordinate Police Officers. If the injury is serious, notify the PDSC and MRC at the time of the accident.
- Notify the PDSC and MRC immediately of any serious accident and/or life-threatening injury to subordinate Police Officers.



- Attend all required safety training.
- Consistently serve as a role model for safe work behavior at all times.

### **9.1.5.2 Police Officers' Chain-of-Command Accountability for Safety**

Any Police Officer's chain-of-command who fails to train and instruct their subordinate Police Officers regarding safety policies, standards, regulations, rules, procedures, processes and commonly accepted safe work practices is subject to disciplinary action up to and including indefinite suspension.

Any Police Officer's chain-of-command who fails to require their subordinate Police Officers to use required safety equipment, including personal protective equipment, is subject to disciplinary action up to and including indefinite suspension.

### **9.1.6 Role and Responsibility of Police Officers**

Police Officers shall be responsible for the following in regards to the Police Department's Safety program:

- Know, understand, and follow safety regulations and rules that apply to the Police Officer's job and the work being performed.
- Attend all required safety training.
- Wear personal protective equipment and work clothing required for safe job performance.
- Use other safety equipment, apparatuses and devices provided for safe job performance.
- Maintain assigned equipment according to recommended maintenance instructions and maintenance schedules.
- Possess a valid State of Texas driver's license as required by the Police Officer's position or job function. Police Officers moving to Texas from out of state will be required to obtain a valid Texas driver's license as prescribed by the FW Civil Service Local Rules and in accordance with state law. The Human Resources Department may conduct driver's license records checks with the Texas Department of Public Safety to identify Police Officers whose license is suspended or revoked. Police Officers who fail to maintain and possess a valid Texas driver's license shall be subject to disciplinary action up to and including indefinite suspension.

- Obtain, maintain and possess personal automobile insurance coverage if the Police Officer drives his/her personally owned vehicle in the performance of City business. In the event of a vehicle accident involving a Police Officer's use of his/her personal vehicle while on City business, the City shall look first to the Police Officer's personal auto insurance coverage for liability coverage.
- If the Police Officer drives a City vehicle or personally-owned vehicle in the course and scope of the Police Officer's job duties, the Police Officer must complete a Defensive Driving course at least every three years.
- All Police Officers and occupants of vehicles driven by Police Officers on City business must have their seat belts and harnesses fastened while the vehicle is in motion. This directive applies to travel in both City-owned vehicles and privately owned vehicles used for City business.
- Report immediately all hazards, unsafe conditions, unsafe equipment and unsafe acts of others to a Police Officer's chain-of-command, PDSC, or to HR Risk Management.
- Report all accidents and injuries in which the Police Officer is involved or that the Police Officer observes or learns of, to Police Officer's immediate chain-of-command. The report of an accident or injury must occur within 24 hours, or at the beginning of the next shift.

#### **9.1.6.1 Police Officers' Accountability for Safety**

Each Police Officer is accountable for safely performing his or her job. If the Police Officer is doing the job correctly, then the Police Officer is doing the job safely. A Police Officer who fails to observe and follow safety policies, standards, regulations, rules, procedures, processes and commonly accepted safe work practices is subject to disciplinary action up to and including indefinite suspension. A Police Officer who fails to use safety equipment provided, including personal protective equipment, is subject to disciplinary action up to and including indefinite suspension.

## **9.2 Safety Rules, Regulations and Requirements**

### **9.2.1 Occupational Health and Safety Regulations**

The City recognizes and follows the regulations below as primary standards and rules for workplace safety of Police Officers:

- Title 29, Code of Federal Regulations, Occupational Safety and Health Act of 1970; Part 1910 for General Industry; and Part 1926 for the Construction Industry (Commonly referred to as the OSHA Standards)

<http://www.osha.gov/law-regs.html>

- Regulations passed under the Commercial Vehicle Safety Act of 1986, Title 49, Code of Federal Regulations (CFR), Part 380 Special Training Requirements, Part 382 Controlled Substances and Alcohol Use and Testing, Part 383 Commercial Driver’s License Standards, and Part 384 State Compliance with Commercial Driver’s License Program.

<http://www.fmcsa.dot.gov/regulations/title49/b/5/3>

- The Texas Commercial Driver License Act of 1989, as codified in the Chapter 522 of the Texas Transportation Code, as amended.

<http://www.statutes.legis.state.tx.us/Docs/TN/htm/TN.522.htm>

HR Risk Management may identify other regulations and standards and/or may develop and maintain other similar standards, regulations, rules and procedures as necessary to supplement OSHA standards for the health and safety of all city employees, including Police Officers. All Police Officers and their chain-of-command shall follow these standards, regulations, rules and procedures unless a specific standard or regulation is waived by the HR Assistant Director for Risk Management.

### **9.2.2 Occupational Health, Safety, and Accident Prevention Program**

HR Risk Management shall develop, maintain and implement a citywide occupational health, safety and accident-prevention program and plan that includes the major elements of an effective program as identified in the federal Occupational Safety and Health Administration’s (OSHA) “Safety and Health Program Management Voluntary Guidelines.” HR Risk Management may develop procedures and processes as necessary for the effective administration and implementation of the Citywide Safety and Accident Prevention Program.

The Police Department shall support and follow the Citywide Safety and Accident Prevention Program plan and subsequent procedures and processes developed by the Risk Management Division. The Police Department shall also develop, maintain and implement health and safety programs and plans, consistent with the Human Resources Citywide Safety and Accident Prevention Program that address hazardous conditions to which Police Officers are routinely exposed in the performance of their jobs.

### **9.2.3 Requirements Related To Illness and Communicable Diseases**

### **9.2.3.1 Assisting Police Officers Who Become Ill at Work**

Police Officers who become ill at work should be attended to immediately. If the Police Officer's medical condition is potentially serious or life threatening, the attending personnel will immediately call 911.

In nonemergency situations when the Police Officer cannot continue working, the Police Officer should seek medical attention from a doctor or hospital of his or her choice. If the Police Officer requests assistance, the Police Officer's chain-of-command or designee must assist the Police Officer in contacting the Police Officer's designated emergency contact to arrange transportation for the Police Officer. It is the Police Officer's responsibility to seek assistance for arranging such transportation. If transportation cannot be arranged through the emergency contact, the Police Officer's chain-of-command or designee must arrange for transportation of the Police Officer to his or her residence or to another location designated by the Police Officer. The expense of transportation arrangements as applicable will be the responsibility of the Police Officer.

### **9.2.3.2 Contagious and Communicable Diseases**

The City follows the recommendations promulgated and published by the U.S. Centers for Disease Control (CDC), Tarrant County Health Authority, and/or the City's occupational health services contractor.

The City reviews each communicable disease situation on an individual case-by-case basis. If a manager or Police Officer's chain-of-command suspects a contagious or communicable disease outbreak or exposure incident in the workplace, they should immediately contact the City's HR Risk Management's HR Risk Management for assistance. Any Police Officer who feels they may have been exposed to a contagious or communicable disease should inform their department management or contact the HR Risk Management HR Risk Management as soon as they are aware of the potential exposure.

Police Officers who contract a contagious disease that may be transmitted from one person to another via work-related contact are expected to seek appropriate medical attention and remain out of work until medically approved to return to the workplace. If a Police Officer comes to work and may be suspected of having a contagious or communicable disease that could significantly impact others in the workplace, they may be required by the Police Chief or HR Risk Management to leave the workplace and remain off work until such time that the infected Police Officer may no longer transmit the disease to another person via work-related contact. The Police Officer would be required to use accrued leave or be on leave without pay if no accrued leave is available. The Police Chief may require the Police Officer to provide to the department Medical Records Custodian (MRC) a medical release from a medical doctor before allowing the Police Officer to return to work.

## **9.3 Commercial Driver License (CDL) Program**

The City maintains a fleet of commercial motor vehicles that are operated by CDL-qualified drivers. Questions regarding the CDL qualifications can be directed to the Risk Management Division.

## **9.4 Accident Review Board (ARB)**

It is incumbent upon every member of the Police Department to promote and cultivate a culture of safety within the Department. All Police Officers are expected to work safely and ensure that all safety rules and regulations are observed by themselves and others. It is the obligation of every Police Officer to address and report unsafe conditions and actions. To assist in cultivating a culture of safety, the Police Department shall establish an Accident Review Board (ARB) to conduct reviews of vehicular accidents, property damage, and work-related injuries. The ARB will review all vehicular/equipment accidents, and any work-related injuries that lead to treatment from a licensed medical provider. For each case reviewed, the ARB will identify the root cause and classify vehicular accidents as either Chargeable/Non-Chargeable or non-vehicular accidents as Preventable/Non-Preventable. The ARB may recommend preventative actions to ensure hazards discovered during the review process are properly addressed.

### **9.4.1 Police Department Accident Investigations**

Before the Accident Review Board assembles to review an accident or injury, the investigation of that incident by the Police Department's immediate chain-of-command must have already taken place. The investigation should include a review of the driver and/or injured Police Officer's detailed written statement, the accident report, other police investigation report(s) as applicable, pictures and/or diagram of the accident scene, witness statement(s) as applicable, any supporting documentation, and the investigator's written report that summarizes the investigation that was conducted. These investigation materials will be provided for review by the ARB.

### **9.4.2 ARB Process**

It is strongly recommended that accidents and incidents be reviewed by the ARB within 30 days from the date of occurrence. If ARB reviews occur beyond 30 days, there must be a documented reasonable justification for the delay. The ARB's findings are valid, and an officer may be disciplined for an accident, even if the ARB fails to convene within 30 days. The objective of the accident review process is to determine the preventability of events that result in vehicular/equipment accidents and Police Officer injuries, and to recommend appropriate organizational or individual preventative action(s).

The departmental ARB shall consist of a Facilitator and Board Members appointed by the Police Chief. The composition of the ARB should fairly portray the units within the Police Department, provide adequate representation from all areas of operations, and include members to represent all levels of employment. Alternates should be appointed for each member serving on the board.

All determinations will be made by a majority vote of board members present. The Facilitator is not a regular voting member but will vote in cases requiring a tie-breaker. The role of the

Facilitator is to conduct a well-ordered meeting, however, he/she is not considered a regular voting member, and does not participate in the debate or voting, with the exception of voting to break ties.

The Facilitator will conduct ARB meetings, record and maintain pertinent information concerning board activities, compile necessary documents for distribution at the meetings, notify workers, Police Officer's chain-of-command, and ARB members of future meeting details, participate in interviews and information gathering, and vote as needed (only when there is a tie among the accident review board or when sitting in place of an absent board member). ARB members will participate in interviews and information gathering, discuss findings and make individual recommendations, vote, and if unable to attend a regularly scheduled meeting, the ARB member must contact his/her alternate and make arrangements for that person to attend.

During an ARB meeting, the Facilitator will call the meeting to order and make note of present members. The ARB shall review the investigation packet described above, provide the involved Police Officer an option to provide a statement and answer questions from ARB members, interview the Police Officer's chain-of-command and witnesses (as applicable), engage in discussion as needed, and vote on the classification of the incident as chargeable or not (for vehicle accidents) or preventable or not (for non-vehicular accidents). Vehicle accidents will be classified as chargeable if the Police Officer is found to be in violation of a traffic law or departmental regulation which is a contributory factor in the accident. Non-vehicular accidents will be classified as preventable if the Police Officer has failed to do everything reasonably expected to avoid the accident. For example, if it is determined that the Police Officer was not cautious, used poor judgment, and/or did not follow safety-related policies, procedures, or practices, the accident may be classified as preventable.

### **9.4.3 ARB Authority**

The ARB has authority to request additional information concerning the investigation of accidents and unsafe conditions or practices. The ARB does not have the authority to initiate disciplinary action as a result of their findings. The ARB is required to record all proceedings and findings in writing and maintain those documents in accordance with the City's record retention guidelines. It is strongly suggested that the ARB consult with HR Risk Management as needed and share records as requested by the HR Risk Management so that trends and preventive actions can be monitored City-wide.

### **9.4.4 ARB Findings and Appeal Processes**

Accident determinations shall not be finalized until the ARB's findings have been passed through the chain of command and all recommendations presented to the Chief of Police. If the deputy chief or division manager of the affected Police Officer employee does not agree with the conclusion of the ARB, they can have the matter reconsidered by a request through the Assistant Chief.

Findings of the ARB shall be provided in writing to the Police Chief or designee with a copy to the Risk Management Department. Within five (5) business days of receiving the ARB's decision, the Police Chief or designee will notify the Police Officer and his/her Police

Officer's chain-of-command in writing of the decision and inform the Police Officer of his/her right to appeal.

Questions regarding the ARB process can be directed to the HR Risk Management.

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# 10. Occupational Injury Benefits Program

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## **10.1 Purpose**

The City strives to ensure that Police Officers who are injured in the course and scope of performing their jobs are provided available support and assistance toward the goal of returning to work as healthy and as quickly as possible. This policy will provide information on resources available in such situations. Police Officers may be eligible to receive workers' compensation medical benefits and income benefits if injured in the course and scope of performing their jobs.

The City of Fort Worth’s workers’ compensation program is a self-insured workers’ compensation program as defined by the Texas Labor Code, §504.011(1). The City provides workers’ compensation benefits to Police Officers in accordance with the Texas Labor Code and Administrative Rules (Admin. Rules) adopted by the Texas Department of Insurance, Division of Workers’ Compensation (DWC). In addition, the City provides occupational injury leave benefits to Police Officers in accordance with TLGC, Section 143.073 and City Council Resolution No 4420-03-2015.

The Occupational Injury Benefits Program applies only to compensable injuries sustained in the course and scope of employment. Injuries that are not compensable are considered non-occupational injuries. Compensability of injuries and payment of workers’ compensation benefits are governed by the Texas Labor Code and Texas Administrative Code rules (Please see *Glossary* for applicable definitions of terms used in this Chapter).

Police Officers may be eligible to receive workers’ compensation medical benefits, Income Benefits and Occupational Injury Leave Pay (Occupational Leave, or “O-Days”) if the Police Officer is injured in the course and scope of performing his or her job. The following rules are developed in accordance with the rule-making authority granted to the City of Fort Worth by the Texas Labor Code, Section 504.071.

For questions about this chapter, call the HR Assistant Director for Risk Management.

## **10.2 Duties, Responsibilities, and Authority within the Occupational Injury Benefit Program**

### **10.2.1 HR Risk Management Division**

The Occupational Injury Benefits Program is administered through the City’s third party administrator, Black Stone Provider Group, by the Risk Management Division of the Human Resources Department. The HR Risk Management Division establishes requirements, rules and procedures for the effective administration of the program.

### **10.2.2 Police Department Medical Records Custodian**

In accordance with the City Manager’s Administrative Regulation D-10, “Protection of Medical Information”, the Police Chief shall appoint a professional-level Police Officer(s) and an alternate as the department’s Medical Record Custodian (MRC) who shall serve as the department’s points of contact for workers’ compensation, return-to-work coordination, and



medical-records-keeping purposes. In this capacity, the MRC shall also serve as the Police Department's Workers' Compensation Coordinator.

The MRC shall be responsible for the following in regards to the City's Occupational Injury Benefits Program:

- Coordinate with injured/ill Police Officers and their supervisors regarding the protection of the confidentiality of medical records received by the City.
- Receive, maintain and retain medical records and information, as well as maintain the confidentiality and proper release of such records and information in accordance with the City's Administrative Regulation D-10.
- Promptly provide workers' compensation medical records to HR Risk Management as required by the personnel rules and regulations and by HR Risk Management procedures.
- Coordinate with the HR Risk Management Division, the Third Party Administrator (TPA), and injured Police Officers and their supervisors regarding the City's occupational injury benefits and return-to-work programs, and report issues and problems promptly to HR Risk Management for resolution.
  
- Obtain information from injured Police Officers, coworkers and their supervisors that is required by the Labor Code, Rules, City Police Department Personnel Rules and Regulations (PDPRRs) and HR Risk Management procedures to establish, investigate, and manage claims for workers' compensation benefits; and timely report such information as required by the Labor Code, Rules, the PDPRRs and HR Risk Management
- Ensure that supervisors and managers receive copies of HR Risk Management's "Supervisor's Packet for New Job-Related Injuries/Occupational Diseases"
- Contact injured Police Officers prior to follow-up doctor appointments to remind them (1) of the appointment, and (2) that they must provide a completed DWC-73 to the MRC following the appointment
- Monitor claims while Police Officers are receiving workers' compensation benefits and occupational injury leave benefits; monitor injured Police Officers' on-going eligibility to receive O-Days

- Serve as or assist the injured Police Officers, their supervisor and timekeeper with records and dates pertaining to injured Police Officers' lost time and/or transitional duty time to ensure that time and attendance records accurately reflect periods of lost time and transitional duty as determined by the claims adjuster handling the workers' compensation claim and/or HR Risk Management; assist the timekeeper with records and dates pertaining to the payment of occupational injury leave in accordance with the PDPRRs; assist Payroll and HR to recoup any overpayments to injured Police Officers/claimants according to procedures established by Human Resources and Payroll
- In accordance with the rules and instructions from HR Risk Management, post in the workplace and maintain all DWC required notices relating to workers' compensation
- In cooperation with HR Risk Management, provide reports to the Police Chief and executive management that summarize Police Officers' injuries and claims
- Monitor injured Police Officers' health care appointments attendance and inform HR Risk Management if a Police Officer fails to attend scheduled health care appointments
- Upon notification by HR Risk Management or the TPA that a Police Officer/claimant has a designated doctor examinations, required medical examination or independent medical examination, inform the Police Officer of the examination date, time, and location; monitor the Police Officer's attendance at the examination and inform HR Risk Management and the TPA in cases of non-attendance
- Report non-compliance by Police Officers and supervisors to departmental management and to HR Risk Management
- Ensure FMLA leave is designated and runs concurrently with occupational injury leave as applicable and available.

A "Workers' Compensation Resource Manual" has been prepared by HR Risk Management for the benefit of MRCs to provide detailed guidance and procedures related to workers' compensation duties and responsibilities. This Manual may be obtained from the HR Risk Management Office.

### **10.2.3 Chain of Command**

A Police Officer's chain of command is responsible for communicating to Police Officers that the Police Officer is required to report all accidents and injuries to the immediate chain of command within 24 hours or at the beginning of the Police Officer's next shift. This communication can be done through such means as departmental policy, staff meetings, training opportunities, and/or other means per business needs. Written acknowledgement

regarding this notification requirement will be obtained when Police Officers are initially hired and should be renewed on a regular basis (e.g., annually or biennially).

When notified by a Police Officer that an injury has occurred, the Police Officer's immediate chain of command must do the following (NOTE: notice of injury from the Police Officer may be either verbal or in writing):

- (1) Complete the Employer's First Report of Injury form (DWC-1) the same day of the injury or at the beginning of the next shift. The Police Officer's chain of command rather than the Police Officer must complete the DWC-1, and submit the DWC-1 to the MRC.
- (2) If other Police Officers and/or co-workers witnessed the injury/incident, provide a "Witness Report of Accident to the City of Fort Worth" form to each witness, with instruction to complete and return the form to the MRC within 72 hours.
- (3) Provide to the injured Police Officer the following forms for completion by the Police Officer and return to the MRC within 24 hours of the injury, or at the beginning of the next shift:
  - Police Officer's Report of Injury to City of Fort Worth
  - Authorization to Release Medical Information
  - Black★Stone Provider Panel Acknowledgement Form

If medical treatment is sought by the Police Officer, the Police Officer's chain-of-command must do the following:

- (1) Inform the injured Police Officer that she or he must seek medical treatment for the injury from a Primary Treating Physician within the Black★Stone Provider Panel, unless a serious medical emergency exists.
- (2) Provide the injured Police Officer with a completed "Authorization for Initial Medical Treatment" form to take to the treating doctor. This form is available from the MRC or HR Risk Management. If the injury is serious enough to warrant emergency treatment, ensure the Police Officer is transported to the nearest emergency treatment facility, and provide the authorization form to the ER facility.
- (3) Provide to the injured Police Officer the "City of Fort Worth Black★Stone Provider Group 504 Medical Care Program Acknowledgement Form".

- (4) Require the injured Police Officer to submit a completed, signed DWC-73 “Work Status Report” to the Police Officer’s chain-of-command following each medical examination visit to a workers’ compensation examining doctor. Form DWC-73 must be submitted to the MRC upon receipt by the chain-of-command.

Note: The DWC-73 is not required by the State of Texas when an injured Police Officer is taken to a hospital emergency room or is admitted to a hospital. However, a medical release from the hospital that specifies the patient’s work status and any restrictions to work is required by HR Risk Management in lieu of the DWC-73.

When a Police Officer is released by an examining doctor to return to work with restrictions, the Police Officer’s chain of command is required to provide transitional duty assignments if such assignments are reasonably available. Such transitional duty assignments must be coordinated with the MRC. The chain of command shall ensure that a Police Officer on transitional duty performs only those duties that are within the examining doctor’s identified restrictions. The MRC will work with the chain of command to provide a bona fide offer of employment as required by the Texas Labor Code.

#### **10.2.4 Police Officers**

When occupational injuries occur, Police Officers are required to comply with all applicable provisions of the Texas Labor Code, Texas Workers Compensation Rules in 28 Texas Administrative Code (Rules) , City PDPRRs, and HR Risk Management procedures.

##### **10.2.4.1 State of Texas Workers’ Compensation Claims Reporting Requirements for Police Officers**

The State of Texas has established specific requirements that all injured Police Officers, including Police Officers, must follow in order to qualify for workers' compensation benefits.

**Notification Requirement.** The Police Officer must notify his/her chain-of-command (supervisor) within 30 days of injury. Notification may be either verbal or in writing. If notification is not received within 30 days from the date of injury, the Police Officer’s claim for workers’ compensation benefits may be denied by the Third Party Administrator (TPA). The date of injury for an occupational disease is the date the Police Officer knew or should have known that the disease (injury) may be related to his/her job.

**Claim-Filing Requirement.** The Police Officer must file form DWC-41, “Police Officer’s Claim for Compensation for a Work-Related Injury or Occupational Disease” within one (1) year of the date of injury or within one year of the date the Police Officer knew or should have known an occupational disease may be work related. This form must be filed

with the DWC at the address provided on the form. If the DWC-41 is not received by DWC within one (1) year from the date of injury, the Police Officer's claim for workers' compensation benefits may be denied. This form will be provided to the Police Officer by the State Division of Workers' Compensation (DWC).

**Requirements Related to a Communicable Disease Exposure.** A Police Officer who is exposed to a communicable disease while on the job is required by statute and Rule to do the following in order to qualify for workers' compensation benefits:

- Within 10 days of the exposure to the communicable disease, the Police Officer must be tested for the disease by a qualified medical facility and health care provider
- Documentation of the test results from the medical provider must be provided to the Police Department MRC
- A sworn affidavit of the date and circumstances of the exposure signed by the Police Officer must be provided to the MRC

The test result must indicate the absence of the disease in order to qualify for future workers' compensation benefits. The Police Officer is not required to pay for the test.

The MRC shall provide the test results and sworn affidavit to HR Risk Management, and file a DWC-1 for the occupational disease exposure.

Communicable diseases affected by this provision are those that are reportable to the Texas Department of State Health Services, in accordance with Chapter 81, Health & Safety Code. The Department of State Health Services may be contacted (Toll Free 1-888-963-7111 or 512-776-7111) to ensure full compliance with this statute.

Details of State of Texas workers' compensation requirements and regulations are located at the following website links:

- Texas Labor Code: <http://www.statutes.legis.state.tx.us/>
- Texas Administrative Code, Title 28:  
[http://info.sos.state.tx.us/pls/pub/readtac\\$ext.ViewTAC?tac\\_view=3&ti=28&pt=2](http://info.sos.state.tx.us/pls/pub/readtac$ext.ViewTAC?tac_view=3&ti=28&pt=2)
- Texas Health & Safety Code, Chapter 81:  
<http://www.statutes.legis.state.tx.us/Docs/HS/htm/HS.81.htm#81.001>

#### **10.2.4.2 City of Fort Worth Workers' Compensation Claim Reporting Requirements**

In addition to State of Texas claim reporting requirements, the City of Fort Worth has also established the following requirements and procedures that a Police Officer with an on-the-job injury must follow. An injured Police Officer must:

- Within 24 hours of the injury, notify the immediate chain of command that an on-the-job injury has occurred. Notification may be either verbal or in writing.
- Complete and sign the City’s notice of injury form, “Police Officer’s Report of Injury to the City of Fort Worth.” Submit the form to the MRC within 24 hours of the date of injury, or at the beginning of the Police Officer’s next shift (if the 24-hour window falls outside normal business hours such as on a weekend or holiday, or on a day the Police Officer is not scheduled to work).
- Complete and sign the City’s “*Authorization to Release Medical Information*” form. Complete the form within 24 hours of the date of injury, or at the beginning of the Police Officer’s next shift, and submit the form to the MRC.
- Sign the “Black★Stone Provider Panel Acknowledgement Form”. Submit the form to the MRC within 24 hours or at the beginning of the next shift.

## **10.3 Medical Benefits and Treatment**

### **10.3.1 Medical Benefits Entitlement**

The City of Fort Worth provides medical benefits and treatment for injured Police Officers in accordance with the Texas Labor Code and Texas Administrative Code Rules. City of Fort Worth Police Officers are entitled to medical treatment and care that is reasonably required by the nature of the injury and that is intended to cure and relieve the effects naturally resulting from the compensable injury, promote recovery, and enhance the ability of the Police Officer to return to work.

In accordance with the Labor Code §504.053(b), the City of Fort Worth has established a health care provider panel for the purpose of providing workers’ compensation medical benefits to City Police Officers. This panel is known as the Black★Stone Provider Panel.

### **10.3.2 Medical Treatment for a Job-Related Injury or Occupational Illness/Disease**

If a Police Officer needs medical attention, the Police Officer must seek medical treatment from an authorized Primary Treating Physician (PTP) within the City of Fort Worth’s Black★Stone Provider Panel.

### **10.3.3 Black★Stone Provider Panel**

In accordance with the Texas Labor Code, §504.053(b), the City of Fort Worth has directly contracted with certain health care providers to provide a network for medical treatment and care of city Police Officers, including Police Officers, who are injured in the course and scope

of employment. This workers' compensation network is known as the "Black★Stone Provider Panel" (Black★Stone). Black★Stone has been developed as part of the City's contract for third party workers' compensation claims administration services. Through the TPA and their health care credentialing partner, the City directly contracts with licensed health care professionals to provide medical care to City Police Officers, including Police Officers, through Black★Stone. The effective date of Black★Stone was October 1, 2016.

The purpose of Black★Stone is two-fold:

- (1) provide the highest quality medical treatment and services available to injured City Police Officers; and
- (2) return injured City Police Officers to the workforce as soon as the Police Officer is medically able to do so

**Black★Stone Website** – Black★Stone maintains a website that contains information for Police Officers and health care providers regarding the Network. Included on this website is a list of providers by medical specialty that are authorized to participate in Black★Stone. A "Look-Up" feature of the website allows an injured Police Officer to look-up a PTP or specialty provider by name, county/city, and/or zip code. The URL of the website is: <http://blackstonecfw.com/>.

**Black★Stone Police Officer Acknowledgement** - Upon receipt of notification of an on-the-job injury or illness, the supervisor shall provide the injured Police Officer with a "Black★Stone Acknowledgement Form". The Police Officer is required to sign and return the form to the MRC within 24 hours of receipt of the document. Upon receipt of the signed acknowledge form, the MRC should forward the document via fax, email or hand delivery to HR Risk Management. This notification / acknowledgement form is provided on the Black★Stone website under "Forms".

**Health Care Nominations to become an Authorized Black★Stone Provider** - Health care providers may submit an application to the TPA to request becoming an authorized provider in the Black★Stone Network. Police Officers may also nominate health care providers for the Black★Stone Network. All applicants will be thoroughly reviewed and credentialed by the TPA and credentialing subcontractor. Only those health care providers that are approved by the TPA and credentialing subcontractor may participate as a contract provider in the Black★Stone network. Requesting health care providers are offered no assurance that their application will be approved. A nomination form is provided on the Black★Stone website under "Forms".

**List of Approved Black★Stone Providers** - A .pdf copy list of approved Black★Stone providers may be located on the website under the "Forms" section.

### **10.3.4 Medical Treatment of Injured Police Officers Required in Black★Stone**

Police Officers who are injured in the course and scope of employment are required to seek medical treatment for their injury from a contracted health care provider within the Black★Stone Provider Panel.

Failure of a Police Officer to obtain medical treatment and services from an authorized Black★Stone health care provider may result in denial by the city's TPA for payment of such treatment and services, and the Police Officer shall be responsible for payment of medical services rendered.

Police Officers must select a treating doctor from among the list of Primary Treating Providers (PTP) on the Black★Stone website. If a Primary Treating Doctor makes a referral to a specialty doctor, such referrals will be made to a specialty doctor on this list.

If medical services are required by a health care provider that is not in Black★Stone, provisions will be made by the TPA to authorize reasonable and necessary medical care by outside providers for payment by the TPA and the City's self-insured workers' compensation program. At the discretion of Black★Stone, such health care providers may be supplied with an application to become an authorized provider in Black★Stone.

"Legacy claims", i.e., those claims with dates of injury that pre-date implementation of Black★Stone on October 1, 2016, are evaluated by Black★Stone on a case-by-case basis to determine if these claims should be brought into Black★Stone.

### **10.3.5 Emergency Medical Treatment**

If the injury is serious enough to warrant emergency treatment, the Police Officer should seek treatment from the nearest emergency treatment facility. An "Authorization for Initial Medical Treatment" form can be obtained from the MRC or HR Risk Management. Otherwise the ER facility should be informed that this is an on-the-job injury under workers' compensation, and the Police Officer should request the ER facility contact the MRC or HR Risk Management for treatment authorization and billing instructions. After the emergency medical condition has passed (i.e., the Police Officer has been released from care by the emergency medical facility) the injured Police Officer must seek further medical treatment from an authorized Black★Stone provider for all subsequent care.

### **10.3.6 Attendance at Medical Appointments**

All scheduled health care provider appointments must be attended unless good cause exists for not attending. If the Police Officer is unable to attend a scheduled health care provider appointment, the Police Officer must immediately notify the health care provider and the MRC prior to the appointment time, if possible.

### **10.3.7 Work Status Report**

For each medical appointment that involves a medical examination by a doctor, the Police Officer must obtain form DWC-73 "Work Status Report" from the examining doctor. The



form must be fully completed by the examining doctor, and must include the doctor's signature. The Police Officer must sign the form, and then submit the form to the MRC on the same day as the doctor appointment or at the beginning of the next business day.

### **10.3.8 Change of Primary Treating Physician (PTP)**

A Police Officer may change PTPs one time by simultaneously notifying the assigned workers' compensation claims adjuster and the prior PTP. Any subsequent changes in PTPs must be pre-approved by Black★Stone in a form and manner prescribed by Black★Stone. The Police Officer may not obtain medical treatment from another doctor unless written approval is first received from Black★Stone. Any change of PTPs must be to an authorized PTP within the Black★Stone Provider Panel.

### **10.3.9 Referral to Medical Specialist**

All referrals to medical specialists shall be made only by an authorized Black★Stone provider.

### **10.3.10 Unauthorized Medical Treatment**

A Police Officer who receives medical treatment from any health care provider who is not an authorized Black★Stone provider may be personally responsible for payment of such medical services.

An injured Police Officer shall not file for medical benefits under the City's health benefits program for an injury incurred in the course and scope of employment, unless the workers' compensation claim has been properly adjudicated through the benefit dispute resolution process provided under the Labor Code, Chapter 410 "Adjudication of Disputes".

Health care providers are specifically prohibited by the Labor Code from directly billing an injured Police Officer. Direct billing to an injured Police Officer is an administrative violation of the Labor Code, and is subject to administrative sanctions and penalties against the health care provider. A Police Officer who receives a direct billing statement from a health care provider should immediately contact his or her assigned workers' compensation claims adjuster.

In addition, health care providers are specifically prohibited from seeking reimbursement from health benefits insurers for workers' compensation injuries unless the health care provider's sub-claim for benefits has been finally adjudicated through the DWC's dispute resolution process.

### **10.3.11 Inability to Work**

If an examining doctor determines that a Police Officer's medical condition prevents the Police Officer from returning to work, the Police Officer must remain at home, follow the

medical instructions of the doctor in order to recuperate, and not engage in activities of any kind that contravene the medical orders of the doctor. A Black★Stone provider or emergency physician must authorize any and all lost time away from work.

A Police Officer who has been released by an examining physician to return to work is subject to the Return-To-Work provisions of these PDPRRs (reference: Chapter 11 Return To Work).

### **10.3.12 Other Medical Conditions While on Workers' Compensation**

An injured Police Officer with a compensable injury who must be off work due to a serious medical condition that is unrelated to the compensable injury must notify his/her supervisor or manager that he/she must be off work due to the unrelated medical condition. The Police Officer shall provide to his/her supervisor/manager documentation from his/her doctor stating the Police Officer is unable to work due to the unrelated medical condition. The Police Officer must follow these Police Department Personnel Rules and Regulations related to sick time and the Family Medical Leave Act. The Police Officer must use available accrued leave during the recuperation period. If accrued leave is unavailable, the Police Officer must go on unpaid leave of absence. The City will not pay temporary income benefits or occupational injury leave benefits during any recuperation period of a medical condition that is unrelated to a compensable injury. Once the unrelated medical condition is resolved, TIBS or O-Days as appropriate may be reinstated.

An injured Police Officer who has been released by a doctor to return to work with restrictions to duty (i.e., restricted duty; limited duty; transitional duty) and the Police Officer needs to be away from work due to an unrelated injury or medical condition for a period of three days or less must notify his/her supervisor or manager that he/she must be off work due to the unrelated medical condition. The Police Officer must follow these Personnel Rules and Regulations related to sick time and the Family Medical Leave Act.

The Police Officer must use available accrued leave during the recuperation period. If accrued leave is unavailable, the Police Officer must go on unpaid leave of absence. The City will not pay temporary income benefits or occupational injury leave benefits during any recuperation period for a medical condition unrelated to the compensable injury. This provision applies to injured Police Officers who are receiving workers' compensation benefits for partial days of lost time from work as well as Police Officers who are receiving workers' compensation benefits for full days of lost time from work.

### **10.3.13 Vacation While on Workers' Compensation**

An injured Police Officer who is taken off work by his/her doctor due to the injury but desires to go on vacation must notify his/her supervisor or manager that he/she intends to take the vacation. The Police Officer shall provide to his/her supervisor/manager documentation from his/her doctor stating the Police Officer is physically able to go on the vacation. The Police Officer must use available accrued leave during the vacation period. If accrued leave is unavailable, the Police Officer must go on unpaid leave of absence. The City will not pay temporary income benefits or occupational injury leave benefits during any vacation period. This applies to injured Police Officers who are receiving workers' compensation benefits for

partial days of lost time from work as well as Police Officers who are receiving workers' compensation benefits for full days of lost time from work.

### **10.3.14 Commissioner Order for Medical Examination**

The Texas Department of Insurance, Commissioner of Workers' Compensation is authorized by the Labor Code to order an injured Police Officer to be examined by an independent medical doctor, the purpose(s) of which are specified in the Labor Code §408.004 and §408.0041. A Police Officer who receives such an Order from the Commissioner of Workers' Compensation must attend the scheduled medical examination specified in the Order. Failure to attend a medical examination ordered by the Commissioner of Insurance is an administrative violation of the Labor Code, and the injured Police Officer may be subject to an administrative penalty issued by the Commissioner. In addition, failure of a Police Officer to attend a medical examination ordered by the Commissioner of Workers' Compensation may result in disciplinary action according to these Personnel Rules and Regulations.

If the Police Officer believes that he or she has good cause not to attend the medical examination, the Police Officer must immediately notify the examining doctor to reschedule the examination at the earliest possible date. The Police Officer also must notify the MRC and claims adjuster of the medical examination conflict.

## **10.4 Occupational Injury Leave Benefits**

In accordance with the Labor Code, §504.051, the City offsets payment of workers' compensation Temporary Income Benefits (TIBS) with occupational injury leave full salary payments under the Texas Local Government Code (TLGC) §143.073 for a line of duty injury.

Once the Police Officer has returned to work, if post-injury earnings (PIE) do not equal or exceed the pre-injury average weekly wage (AWW), then the Police Officer is entitled to the difference between PIE and AWW payable as TIBS, up to the maximum TIBS rate set by DWC. This provision does not apply if the Police Officer has attained maximum medical improvement (MMI). If the Police Officer returns to work and if PIE equals or exceeds AWW, then the Police Officer is not eligible to receive TIBS. See also, Section 10.5.3.

The City shall determine AWW based on the Labor Code §408.041 – §408.047 and DWC Rules, 28 Tex. Admin Code §128.1 - §128.7. The City shall determine PIE based on DWC Rules, Tex. Admin. Code §129.1 - §129.2.

If the Police Officer returns to work and occupational injury leave payments under TLGC §143.073 are terminated and/or the authorized occupational injury leave of absence period under City Council Resolution No 4420-03-2015 expires, and there is no authorized extension of occupational injury leave, the Police Officer may be eligible for TIBS until he/she attains MMI.

Under no circumstances shall a Police Officer concurrently receive TIBS under the Labor Code Chapters 408 and 409 and occupational injury leave full salary payments under TLGC §143.073.

#### **10.4.1 Eligibility for Occupational Injury Leave Benefits under TLGC §143.073**

A Police Officer is eligible to receive occupational injury leave of absence benefits if:

- the injury or occupational disease occurred during the Police Officer’s course and scope of employment;
- the injury or occupational disease is determined by the City’s TPA to be a compensable injury; and in the opinion of an examining doctor, the Police Officer’s medical condition resulting from the injury prevents the Police Officer from returning to work either in a full duty capacity or in a full-time, transitional duty work assignment.

#### **10.4.2 Duration of Occupational Injury Leave Benefits**

A Police Officer shall continue to receive occupational injury leave benefits until the earliest of the following events occurs:

- an examining doctor determines the Police Officer’s medical condition resulting from the injury no longer prevents the Police Officer from returning to work either in a full duty capacity or in a full-time transitional duty work assignment
- Two years of medically-documented “off-work” or lost time status by an examining doctor(s) stating the Police Officer’s medical condition resulting from the injury prevents the Police Officer from returning to work either in a full-duty capacity or in a full-time transitional duty work assignment. The two-year period of occupational injury leave may be intermittent periods of lost time interspersed with periods of transitional duty and/or full duty. Upon the Police Officer’s request, and in limited circumstances, City Council may extend this two-year period for a time

that it deems appropriate. The current City Council policy is more than what is required by TLGC Section 143.073. See Section 10.4.4.2 of these PDPRR's for the process for requesting an extension.

- Exception: If at the time the two years of medically-documented off work or lost time status expires the Police Officer has not yet reached statutory MMI as provided by the Labor Code §408.104 regarding spinal surgery, then the Police Officer's eligibility for occupational injury leave shall extend to the date certain of statutory MMI specified in a State Division of Workers' Compensation Order. In order to receive an extension of statutory MMI and subsequently an extension of occupational injury leave, the injured Police Officer must have filed his or her request for the extension with the State Division of Workers' Compensation:
  - no earlier than twelve (12) weeks before the expiration of 104 weeks after the date income benefits began to accrue, or
  - is received on or after the expiration of 110 weeks from the date income benefits began to accrue.

### **10.4.3 Disputes of Ability to Work**

The opinion of an examining designated doctor appointed by the State Commissioner of Workers' Compensation shall have presumptive weight over a treating or referral doctor regarding a Police Officer's ability to work. If a dispute arises over the Police Officer's ability to work, the opinion of a Commissioner of Workers' Compensation appointed designated doctor shall prevail until such time that:

- The State Division of Workers' Compensation issues a decision and order that the opinion of the designated doctor is contrary to the preponderance of the medical evidence, or
- final adjudication of the dispute determines the opinion of the designated doctor is contrary to the preponderance of the medical evidence.

### **10.4.4 Extensions of Occupational Injury Leave**

#### **10.4.4.1 MRC Notification to Police Officer of Expiration of Authorized Occupational Injury Leave**

In order to timely submit a request, the Police Officer shall be notified by the Police Department's MRC that the Police Officer's two years of authorized occupational injury leave will soon expire. This notification shall occur at least ninety (90) days prior to the expiration of the current authorized occupational injury leave period. The notification shall be by telephone communication followed up in writing via email distribution and/or certified mail. A copy of the written notification shall be provided to the Assistant Director of Human Resources for Risk Management.

The MRC shall include with the ninety-day notification to the injured Police Officer the following documents to take to the examining doctor:

- copy of the Police Officer's job description to include the identification of the essential functions of the Police Officer's general and specific job duties
- physical requirements of the job
- Medical Questionnaire provided by the HR Risk Management Division

Upon receipt of the Police Department MRC's ninety-day notification, the HR Risk Management Division may initiate any one or all of the following action(s):

- Request the TPA to submit a request to the State Division of Workers' Compensation for a Required Medical Examination under the Texas Labor Code, §408.004 to determine the appropriateness of medical care being provided to the injured Police Officer
- Request the TPA to submit a request to the State Division of Workers' Compensation for a Designated Doctor Examination under the Texas Labor Code, §408.0041 to determine the Police Officer's ability to work, date of MMI, impairment rating, extent of injury, and/or whether the Police Officer's disability and/or inability to work are the result of the compensable injury
- Request an IME to include a functional capacity exam to further determine the Police Officer's ability to work.

#### **10.4.4.2 Requesting an Extension of Occupational Injury Leave**

It is the responsibility of the injured Police Officer to request an extension of occupational injury leave. The Police Officer's request for an extension of occupational injury leave must adhere to the following procedures. The request must:

- be in writing to the Director of Human Resources
- be received by the Director of Human Resources no later than 60 days prior to the expiration of the current approved occupational injury leave period;
- include the specific period of time for which additional occupational injury leave is being requested, and
- include complete medical documentation and justification for the additional time off work from an examining doctor.

Medical documentation from the examining doctor must include:

- 1) diagnosis(es) of the injured Police Officer's current medical condition(s);

- 2) medical treatment plan to facilitate the Police Officer's full recovery from injury;  
and
- 3) the specific, anticipated date in time at which point the Police Officer may reasonably be expected to return to work performing the essential functions of a Police Officer

#### **10.4.4.3 Processing a Request to Extend Occupational Injury Leave**

Upon receipt of the Police Officer's written request for an extension of occupational leave and the recommendation of the Police Chief, the HR Risk Management Division shall prepare a recommendation to the Director of Human Resources to either support or not support the Police Officer's request. The recommendation shall consider the Police Officer's cooperation and compliance with following:

- state statutes regarding workers' compensation
- City personnel rules and regulations regarding workers' compensation and occupational injuries
- attendance at scheduled and/or required medical appointments
- attendance at scheduled dispute resolution hearings
- avoidance of unreasonable or unnecessary delays associated with preauthorization requests for medical services and treatment
- avoidance of unreasonable or unnecessary delays associated with benefit dispute resolution proceedings, if any
- any and all medical documentation from examining doctor(s)

#### **10.4.4.4 City Council Consideration of a Police Officer's Request to Extend Occupational Injury Leave**

At the direction of the Director of Human Resources, the HR Risk Management Division shall prepare a Mayor & Council Communication (M&C) to place an action item before the City Council at the earliest opportunity. The M&C shall include justification to either approve or deny the Police Officer's request. The M&C must also inform City Council of the amount of available paid leave that the Police Officer would have available to take if the request is denied.

The City Council may either approve or deny in whole or in part the Police Officer's request. If approved by the City Council, the Police Officer shall be granted additional O-Days in accordance with the decision of the City Council. If denied, the Police Officer may remain off work at the direction of an examining physician and must use available accrued leave.

## **10.5 Time, Attendance and Payroll Rules for Occupational Injury Leave to Police Officers**

The following time reporting rules apply to Police Officers receiving workers' compensation medical benefits, workers' compensation income benefits, and/or occupational injury leave for a compensable injury.

### **10.5.1 Day of Injury**

The day of injury is a full day of normal pay at the Police Officer's normal pay rate. If the shift carries over into the next day, time is recorded as normal pay for the entire shift. If the Police Officer works a split shift and the Police Officer is injured during the carry-over period into the next day, both shifts on the day of the injury shall be recorded as normal pay.

### **10.5.2 Lost Time**

Lost time is time away from work because of a compensable on-the-job injury. Lost time is equivalent to disability as defined by the Labor Code §401.011(16).

The workers' compensation TIBS waiting period does not apply to injured Police Officers.

A Police Officer who is taken off work by an examining doctor for a compensable injury accrues vacation leave, sick leave, but does not accrue holiday leave or receive holiday pay. The Police Officer shall also not earn special pays while on lost time for a compensable injury.

### **10.5.3 Occupational Injury Leave (O-Days)**

The provisions of this policy applies to injuries sustained on/or after October 4, 2003. A Police Officer is subject to this policy except where there may be a conflict with TLGC §143.073.

A Police Officer who is subject to TLGC §143.073 will receive full pay for up to two (2) years in accordance with TLGC §143.073, City Council Resolution No 4420-03-2015, and the provisions of Section 10.4 Occupational Injury Leave Benefits of these PDPRRs.

“Full pay” is defined as the higher amount of the Police Officer's average weekly wage (AWW) or the Police Officer's regular weekly pay at his/her regular pay rate for normal scheduled work hours. Full salary payments begin with the first full day of lost time.

If AWW is less than regular pay for 40 hours, a Police Officer will receive 40 hours full pay through the city's payroll system while off work for a compensable occupational injury. If AWW is greater than regular pay for 40 hours, a Police Officer will receive a paycheck equivalent to AWW.



The City will comply with the DWC Rule, 28 Tex. Admin. Code § 128.3(d) to determine a Police Officer's average weekly wage. The wages paid to the employee for 13 weeks immediately preceding the injury are added together and divided by 13. The quotient is the average weekly wage of the employee.

If a Police Officer does not earn AWW when he/she returns to work, the MRC must complete and submit a DWC-6 to the TPA, showing the difference in Post Injury Earnings (PIE). If PIE is more than AWW, the Police Officer is not due TIBS from the City's TPA. When PIE is less than AWW, the Police Officer is due 70% of the difference between PIE and AWW or the State-mandated maximum TIBS rate. HRIS must also be notified by the MRC of any change in earnings.

A police officer is eligible to receive TIBs if he/she returns to work and full-salary payment is terminated and there is no extension of full-salary benefits. The Police Officer's eligibility for TIBS continues until he/she attains Maximum Medical Improvement (MMI), or AWW equals or exceeds PIE prior to MMI.

The city's payroll system uses time reporting code "DSP – Disability Supplement Pay" to record payment of occupational injury leave to Police Officers.

**Deductions** - All normal paycheck deductions (i.e. taxes, health and dental insurance, court ordered child support, retirement etc.) will continue to be deducted from the full-salary payments that the injured Police Officer receives from the City. All full-salary payments to civil service Police Officers are subject to required payroll deductions to include health insurance, retirement contributions, and any court-mandated deductions (i.e. child support, etc.)

#### **10.5.4 Transitional Duty for a Compensable Injury**

A Police Officer working in a transitional (limited) duty assignment must record their work time as transitional duty (LDU) hours if restrictions or limitations to duty are specified by an examining doctor. While on transitional duty, a Police Officer is allowed to work overtime and earn overtime pay or compensatory time if permitted by their current work restrictions.

A Police Officer on transitional duty may use available accrued leave in accordance with normal leave request procedures.

#### **10.5.5 Workers' Compensation Leave (WCL)**

While on lost time, a Police Officer cannot use workers' compensation leave (WCL) to attend medical appointments.

A Police Officer who is on transitional duty (LDU) or who has returned to full duty is allowed two hours per day of WCL from work, including travel time, to attend a health care appointment related to the compensable injury. Additional time may be allowed if the Police Officer provides proof from the health care provider justifying the additional time. Such proof

must state the time of arrival at the appointment and the departure time. In no event will WCL exceed four (4) hours in one day.

If the Police Officer works a night shift, the Police Officer is allowed WCL during the day to attend a doctor or other health care provider appointment for a compensable injury. In addition, the Police Officer may receive the appropriate shift differential for the WCL hours. During the work week that includes this appointment, the Police Officer is required to coordinate with the Police Officer's chain of command to reduce the Police Officer's scheduled hours by the number of WCL hours taken.

If the Police Officer works a day shift and has a doctor or other health care provider appointment for a compensable injury on a day off, the Police Officer is allowed WCL hours to attend the appointment during the day off. During the work week that includes this appointment, the Police Officer is required to coordinate with the Police Officer's chain of command to reduce their scheduled hours by the number of WCL hours taken.

WCL is paid at the Police Officer's normal pay rate and does not count toward their 40-hour work week. WCL does not count as hours worked for the purpose of calculating eligibility for overtime.

### **10.5.6 Family Medical Leave**

A Police Officer who is off work for more than three consecutive work days will be notified by their MRC that the absence will be reported as FMLA leave. FMLA leave will run concurrently with lost time for a compensable injury. See *Family Medical Leave Act* policy in Chapter 5 for further information.

### **10.5.7 Overpayments**

While the Police Officer is receiving full pay from the City, if any overpayment occurs regardless of cause, the amount of the overpayments will be recovered in whole or in partial payments from future checks from the City, as agreed upon by the department and the Police Officer. The recovery may begin while the Police Officer is on occupational injury leave.

When Police Officer is eligible to receive workers compensation income benefits, any overpayment regardless of cause will be recovered by the City's TPA from future workers compensation income benefits.

### 10.5.8 Seniority

Seniority shall continue to accrue during an occupational injury/illness leave.

## 10.6 Maximum Medical Improvement

The following rules apply when an examining doctor has determined that a Police Officer with a compensable injury has reached MMI (See *Glossary* definition):

### 10.6.1 Effective Date for Time Reporting

The date that HR Risk Management receives the document from an examining doctor that places an Police Officer at MMI shall be the date for time reporting code changes related to MMI.

### 10.6.2 Inability to Work

- **Time Reporting Code** - The Police Officer must use accrued leave while they are unable to work. If accrued leave is not available, the Police Officer must request approval for a leave of absence without pay.
- **Eligibility for TIBS** - The Police Officer is not eligible for workers' compensation TIBS.
- **Eligibility for Occupational Leave Pay Extension**- The Police Officer is not eligible for an extension of occupational leave pay under TLGC §143.073, unless City Council has approved an extension of the leave.
- **Interactive Process** - The MRC will refer the Police Officer to HR Risk Management and the City's ADA Coordinator to engage in an interactive process (Please refer to the *Glossary* definition for more information.) with the Police Officer and assess the appropriateness of the Police Officer's situation for the Employment Options program. See *Inability to Perform Essential Job Functions; Employment Options* in Chapter 11.

### 10.6.3 Return To Work with Restrictions

- **Interactive Process** - The MRC will refer the Police Officer to HR Risk Management and the City's ADA Coordinator to engage in an interactive process and for potential initiation of the Employment Options process. See Chapter 11, Section entitled *Inability to Perform Essential Job Functions; Employment Options*. The department and Human Resources will determine if the Police Officer can perform the essential functions of the job with a reasonable accommodation for the duty restrictions. If a reasonable accommodation can be provided by the department, the Police Officer is returned to work in a modified-duty capacity.

- **Employment Options** - If a reasonable accommodation cannot be provided by the department, the Police Officer proceeds to Employment Options and is referred to the City's return-to-work committee for Employment Options assistance. During the Employment Options period, the Police Officer must use available accrued leave, or if none is available, request approval for a leave of absence without pay, or request leave from the Voluntary Leave Bank. Prior to any layoff during the Employment Options period, the procedures outlined in TLGC, Chapter 143.073 will be followed.

## **10.7 Dispute Resolution**

A claim for workers' compensation is a claim against the City of Fort Worth. Any and all disputes that may arise among parties to a workers' compensation claim shall be resolved or adjudicated in accordance with the Labor Code, Chapter 410, and by State Division of Workers' Compensation Rules 140 through 152.

Police Officers have the right to professional assistance regarding their claim for workers' compensation. Such professional assistance is available at no cost to the injured Police Officer from the Office of Injured Police Officer Counsel, an agency of the State of Texas, which can be reached by phone at 512-804-4173, or by e-mail, [FirstResponderHelp@oiec.texas.gov](mailto:FirstResponderHelp@oiec.texas.gov).

Police Officers also have the option to retain legal representation regarding their claim for Workers' Compensation. If the Police Officer hires an attorney and TIBS are being paid, the attorney's fees can be deducted from weekly TIBS payments made by the TPA. If TIBS are not being paid, arrangements for the payment of attorney's fees must be determined between the Police Officer and his or her attorney.

If Police Officer hires an attorney to represent him/her in the workers' compensation claim, normally the attorney fees would be deducted from the Police Officer's TIBS payments by the City's TPA. The City's Finance Services Management Department/Payroll Division performs administration of full salary and therefore any attorney fees and payments will need to be settled between the Police Officer and the attorney. The City shall not provide legal representation to a Police Officer to assist the Police Officer during dispute resolution proceedings concerning Workers' Compensation benefits.

## **10.8 Miscellaneous Provisions**

### **10.8.1 Working a Second Job While on Workers' Compensation**

A Police Officer who is taken off work by an examining doctor may not work a second job and at the same time be paid workers' compensation income benefits and/or occupational injury leave benefits pay. Working a second job and receiving workers' compensation income benefits may be considered a willful and intentional attempt by the injured Police Officer to fraudulently obtain workers' compensation benefits. The injured Police Officer may be in

violation of the pertinent Labor Code provision and may be subject to administrative penalties and fines from the State Department of Workers' Compensation, and could be ordered to pay restitution for benefits received. A Police Officer who works a second job while on workers' compensation shall not receive occupational injury leave benefits from the City.

### **10.8.2 Prescription Drugs while Performing Transitional Duty**

If a Police Officer who has been released to return to work takes a prescription drug prescribed by an examining doctor that adversely affects the Police Officer's job performance, or the safety of the Police Officer or others, the Police Officer must either not come to work and utilize their department's absence notification procedures, or leave the workplace after notifying their supervisor, and must use available accrued leave. If accrued leave is not available, the Police Officer will be placed on leave of absence without pay.

### **10.8.3 Workers' Compensation Control Group**

A workers' compensation control group is available to the chain-of-command to temporarily fill positions occupied by Police Officers who are unable to work or who are in a less than full-duty status because of an occupational injury or illness.

To place a Police Officer in the control group, the department's employment section shall submit a e-par to HRIS for approval.

The department must continue to pay the salary of a Police Officer transferred into the control group when the Police Officer is in a less than full-duty status.

## **10.9 Compliance**

Police Officers are expected to fully comply with the Act and Rules and all provisions of these PRRs. A Police Officer's failure to comply with the Act and Rules and/or the City's policies regarding Occupational Injury Leave Benefits may:

- result in the suspension or denial of workers' compensation and/or occupational injury leave benefits, and/or
- result in disciplinary action up to and including indefinite suspension in accordance with these personnel policies and procedures and the TLGC.

Police Officers who fail to comply with the provisions of the Labor Code and State Workers' Compensation Division Rules are subject to potential administrative violations and penalties as set forth in Labor Code Chapter 415.

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# 11. Return-To-Work Program

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## **11.1 Purpose and Introduction**

The City provides a return-to-work (RTW) program to assist Police Officers to return to the Police force as soon as the Police Officer is physically and medically able. The HR Risk Management Division administers the citywide RTW Program.

For questions about this Chapter, contact the HR Risk Management Program.

## **11.2 Role of Department Return-To-Work (RTW) Coordinator**

The Police Department's medical records custodian (MRC) workers' compensation coordinator also serves as the department's workers' compensation coordinator and RTW coordinator. (See Chapter 10

on *Occupational Injury Benefits Program*, specifically Section 10.2.2 entitled *Police Department's Medical Records Custodian*.)

In regards to the Police Department's RTW program, the MRC shall be responsible for the following:

- Communicate with doctors regarding the availability of transitional duty for injured Police Officers and to obtain DWC-73 "Work Status Reports" (DWC-73).
- Communicate with Police Officers and his/her chain of command regarding doctor-identified restrictions to duty of Police Officers.
- Monitor the work status of Police Officers who are on lost time or transitional duty as the result of their injury and medical condition; maintain routine contact with injured Police Officers to monitor their work status; and monitor and track transitional duty assignments.
- Assist Police Officer's immediate chains of command in identifying and providing transitional duty assignments based upon the Police Officers' skills, knowledge, ability, recovery period, status of maximum medical improvement (MMI), and duration of doctor-imposed restrictions to duty.
- Assist Police Officer's immediate chains of command with providing bona fide offers of employment (BFOE) to Police Officers returning to work on a transitional duty assignment.

## **11.3 RTW Program for Occupational Injuries**

### **11.3.1 Applicability**

The RTW Program for Occupational Injuries applies only to Police Officers who sustain a compensable job-related injury, illness or disease, or disability.

### **11.3.2 Police Officer Duties and Responsibilities**

In regards to the RTW program for occupational injuries, Police Officers shall be responsible for the following:

- Informing the examining doctor that the City provides transitional-duty opportunities. The Police Officer shall not inform the examining doctor that the City does not provide transitional duty.
- Obtaining a fully completed and signed copy of form DWC-73 "Work Status Report" from an examining doctor during each medical examination.

- Providing the DWC-73 to the MRC after each medical appointment with an examining doctor.
- Reporting to work on the effective date of an examining doctor’s release to RTW, or the beginning of the next scheduled work day or shift.
- Accepting and signing a Bona Fide Offer of Employment (BFOE) upon being released by an examining doctor to return to work in a transitional duty capacity.
- Passing a job-related human performance evaluation (HPE) as a prerequisite to returning to work full duty, as required by the Occupational Injury Return to Work (RTW) rules, if the Police Officer’s job duties require moderate to heavy/very heavy physical demand requirements. HR Risk Management and the City’s ADA Coordinator will engage in an interactive process with a Police Officer to discuss reasonable accommodations if the Police Officer asserts that a disability prevents the Police Officer from passing the HPE if the Police Officer may be able to perform the essential functions of the job with or without a reasonable accommodation.

### **11.3.3 Occupational Injury Return To Work (“RTW”) Rules**

Police Officers returning to work following injury or serious illness must provide to MRC a DWC-73 “Work Status Report” completed and signed by an examining doctor. This completed form must be provided on the day of the medical appointment or at the beginning of the Police Officer’s next scheduled work day or shift.

If the injured Police Officer is released to return to work at full duty, the Police Officer must report to work on the effective date of the examining doctor’s release to return to work or at the beginning of the Police Officer’s next scheduled work day or shift. The effective date of the Police Officer’s return to work will be determined by the examining doctor on form DWC-73. The Police Officer must remain off work until the release is effective.

The medical opinion of a State Division of Workers’ Compensation-appointed Designated Doctor regarding a Police Officer’s ability to return to work has presumptive weight under the Labor Code, and therefore takes precedence over the medical opinion of a treating or referral doctor.

If the Police Officer has physical or medical restrictions to duty, all transitional-duty or alternate-duty assignments must be documented by the department in a Bona Fide Offer of Employment (BFOE), signed by the Police Officer. The department should consult with HR Risk Management as needed prior to providing the BFOE to the Police Officer. A Police Officer’s refusal to accept and sign a BFOE may result in suspension of temporary income benefits (TIBS), and also may result in disqualification from eligibility for occupational injury leave pay.

Before refusing to provide a Police Officer with a transitional-duty assignment, the MRC shall notify the HR Risk Management RTW Coordinator. The HR Risk Management RTW coordinator will work with the Police Officer’s department to try to locate limited or alternate duty within the Police Department or another city department. The Police Department shall pay the Police Officer’s salary while working a limited/alternate duty assignment in another department.



After consulting the HR Risk Management RTW Coordinator, if transitional duty cannot be provided, the Police Officer must remain off work. The off-work period is considered lost time due to the compensable injury, and the Police Officer will continue to receive occupational injury leave pay, or TIBS as appropriate. The off-work lost time status continues until the first occurrence of any of the following:

- A transitional-duty or alternate-duty assignment becomes available that meets the Police Officer's qualifications and restrictions;
- The Police Officer reaches maximum medical improvement (MMI); or
- The Police Officer is released by an examining doctor to perform the Police Officer's essential job functions, with or without reasonable accommodations.

Unless an extension is requested through the HR Risk Management RTW Coordinator and is considered reasonable under the circumstances, transitional-duty assignments end at the first occurrence of any of the following:

- 180 calendar days (cumulative) of transitional-duty assignment;
- Attainment of MMI as determined by an examining doctor, or as required by the Labor Code or DWC Rules; or
- A release by an examining doctor to perform the Police Officer's essential job functions, with or without reasonable accommodations.

A transitional-duty assignment shall not be considered a permanent-duty assignment or permanent job/position with the City. The Police Chief or designee, in consultation with HR Risk Management, may terminate a limited-duty assignment based on the business needs of the Police Department.

A Police Officer who reaches MMI and is unable to perform the essential functions of the job with or without a reasonable accommodation will be directed to the HR Risk Management RTW Coordinator and the City's ADA Coordinator to engage in the interactive process and to assess the appropriateness of the Police Officer's situation for the Employment Options process. See Section 11.5, *Inability to Perform Essential Job Functions; Employment Options* below for further information.

A Police Officer is expected to report to work in accordance with the BFOE and the examining doctor's release to return to work. A Police Officer who fails to do so will be deemed to have refused the BFOE and that may result in suspension of workers' compensation temporary income benefits (TIBS), if applicable. Refusal to sign the BFOE also shall result in disqualification from eligibility for occupational injury leave pay.

A Police Officer is responsible for providing or arranging his/her own transportation to and from work when released to work on transitional duty by an examining doctor.

If a Police Officer who has been released to return to work takes a prescription drug prescribed by an examining doctor that adversely affects the Police Officer's job performance or the safety of the Police Officer or others, the Police Officer must either not come to work and use his department's absence notification procedures, or leave the workplace after notifying his

Police Officer's immediate chain-of-command, and use available accrued leave. If accrued leave is not available, the Police Officer will be placed on leave of absence without pay.

### **11.3.4 Medical Examinations; Designated Doctor Examinations**

A Police Officer may be required by the State Commissioner of Workers' Compensation to attend a designated doctor examination (DDE) under the pertinent Labor Code and DWC Rules to determine the Police Officer's ability to work. If the designated doctor determines the Police Officer may return to work either with or without restrictions to duty, then the Police Officer must return to work on the effective date of the designated doctor's release, or the beginning of the next work day or shift after the effective date of the release. If the DDE report is delayed in being sent to the Police Officer, Police Department and the City, the date that HR Risk Management receives the DDE report shall be the effective date for the Police Officer to return to work. Refer to Chapter 10 of these PDPRR's for rules regarding DDE's.

### **11.3.5 Compliance**

A Police Officer's failure to comply with any requirement of the RTW Program for Occupational Injuries may result in the suspension or denial of occupational leave benefits, and also may result in disciplinary action up to and including termination in accordance with city Personnel Rules and Regulations (PRRs).

## **11.4 RTW Program for Non-Occupational Injuries, Illnesses, Disabilities and Pregnancy**

### **11.4.1 Applicability**

The RTW Program for Non-Occupational Injuries, Illnesses and Disabilities section applies only to Police Officers who sustain an off-the-job injury, illness, disease, disability, or who become pregnant.

### **11.4.2 Police Officer Duties and Responsibilities**

In regards to the RTW program for non-occupational injuries, illnesses, diseases, disabilities, and pregnancy, Police Officers shall be responsible for the following:

- Following the procedures set forth in the Leave chapter (Chapter 5) for requesting and using short-term sick/family leave and FMLA leave for non-occupational injuries and illnesses.

- Reporting to work on the effective date of an examining doctor’s release, or the beginning of the next scheduled work day or shift.
- Passing a human performance evaluation (HPE) as a prerequisite to returning to work full duty, as required by the RTW Program for Non-Occupational Injuries, Illnesses, Disabilities and Pregnancy. The City’s ADA/Disability Coordinator will engage in an interactive process with a Police Officer to discuss reasonable accommodations if the Police Officer asserts that a disability prevents the Police Officer from passing the HPE but the Police Officer can perform the essential functions of the job with or without a reasonable accommodation.
- Accepting and signing a non-occupational BFOE when returning to work in a transitional duty capacity.

### **11.4.3 Non-occupational Injury/Illness Return To Work (“RTW”) Rules**

If a Police Officer is absent from work for more than three (3) consecutive days, and the Police Officer has not reported that the absences are because of an occupational injury or illness, the Police Department may require that the Police Officer have his/her doctor complete and sign the City’s “Non-Occupational Designation of Duty Status Form (DDS).” If the department requires the DDS form but the doctor refuses to complete it, the Police Officer shall obtain alternative documentation, signed by the doctor that provides information regarding the Police Officer’s ability to work, to include any restrictions to work, and the expected duration of any such restrictions. The Police Officer must provide the completed DDS or alternative documentation to the MRC on the same day of the medical examination, or at the beginning of the Police Officer’s next scheduled work day or shift.

In cases where a Police Officer is returning to work from a non-occupational injury or illness, he or she must provide to the MRC a DDS form or alternative medical release completed and signed by a doctor. When released to return to work without restrictions by an examining doctor, the Police Officer must report to work on the effective date of the doctor’s release, or at the beginning of the Police Officer’s next scheduled work day or shift.

If the Police Officer has physical or medical restrictions, all transitional duty assignments must be documented by the Police Officer’s immediate chain of command in a Non-Occupational Transitional Duty Assignment form, signed by the Police Officer. The immediate chain of command should consult with the MRC and/or the HR Risk Management RTW Coordinator as needed regarding the letter or process. A Police Officer’s refusal to accept and sign a Non-Occupational Transitional Duty Assignment will result in the Police Officer remaining off work, and the Police Officer must use available accrued leave, or unpaid leave if accrued leave is not available.

Transitional duty assignments to Police Officers injured in the course and scope of employment shall be given preference over transitional duty assignments to Police Officers with non-occupational injuries or illnesses.

For transitional duty assignments, pregnancy will be considered by the Police Department as the equivalent of a non-occupational injury or illness. A pregnant Police Officer shall be placed in a transitional duty assignment if the following conditions apply:

- the Police Officer’s medical care provider certifies that the Police Officer is unable to perform the duties of her regular work assignment because of her pregnancy
- a transitional duty assignment is available in the Police Department that the Police Officer can perform, and
- the transitional duty assignment is consistent with the restrictions established by the Police Officer’s medical care provider

The transitional duty assignment of a pregnant Police Officer shall apply until such time as the restrictions are no longer applicable.

Before refusing to provide a Police Officer with a transitional duty assignment, the MRC shall notify the HR Risk Management RTW Coordinator. The HR Risk Management RTW Coordinator will work with the Police Department to try to locate transitional duty within the Department or another City department. The Police Department shall pay the Police Officer’s salary while on transitional duty in another department.

If the Police Department is unable to provide transitional duty or the HR Risk Management RTW Coordinator is unable to locate transitional duty in another department, the Police Officer must remain off work and must use available accrued leave, or be placed on leave without pay. The off-work status continues until the Police Officer is released by an examining doctor to full duty.

Unless an extension is requested through the HR Risk Management RTW Coordinator and is considered reasonable under the circumstances, transitional duty assignments end at the first occurrence of one of the following:

- 180 calendar days (cumulative) of transitional duty
- The Police Officer is released by an examining doctor to perform the essential functions of his or her regular job, with or without reasonable accommodations

After 120 calendar days of transitional duty, the HR Risk Management RTW Coordinator and the City’s ADA/Disability Coordinator shall engage the Police Officer in a discussion or interactive process regarding the Police Officer’s limitations or restrictions to work, continuing transitional duty assignment, and any accommodation(s) the Police Officer may identify that could reasonably be provided by the department that might enable the Police Officer to perform the essential functions of the Police Officer’s regular job.

After 180 calendar days of transitional duty, an Police Officer who is unable to perform the essential functions of his or her regular job duties, with or without a reasonable accommodation, will be directed by the MRC to the HR Risk Management RTW Coordinator and/or the City’s ADA/Disability Coordinator to begin an interactive process, which may result in proceeding with the Employment Options process. See Section 11.5, *Inability to Perform Essential Job Functions; Employment Options* below for additional information.

The Police Chief or designee, in consultation with the HR Risk Management RTW Coordinator, may terminate a transitional duty assignment based on the business needs of the department, as substantiated by the Police Chief.

Police Officers must pass a job-related human performance evaluation (HPE) as a prerequisite to returning to work full duty if the Police Officer’s job duties require moderate to heavy/very

heavy physical demand requirements as determined by HR Risk Management. HR Risk Management and/or the City's ADA/Disability Coordinator will engage a Police Officer in an interactive process to discuss reasonable accommodations if the Police Officer asserts that a disability prevents the Police Officer from passing the HPE but the Police Officer can perform the essential functions of the job with or without a reasonable accommodation.

#### **11.4.4 Independent Medical Examinations (IME)**

Situations may arise from a Police Officer's non-occupational injury, illness, disease or pregnancy in which an Independent Medical Examination (IME) may be required. Such situations include but are not limited to the following:

- The Police Officer's doctor refuses or fails to timely complete the city's "Non-Occupational Designation of Duty Status (DDS)" form or provide alternative documentation with required information;
- To determine the Police Officer's ability to perform transitional duty or perform the essential functions of the Police Officer's regular job, with or without accommodation; or
- To determine the Police Officer's eligibility to use MMSL.

In such situations, HR Risk Management will determine whether an IME is appropriate. If HR Risk Management determines that an IME is appropriate, the HR Risk Management RTW Coordinator will coordinate with the Police Officer to identify a mutually agreed upon doctor to perform the IME.

If the Police Officer and the HR Risk Management RTW coordinator cannot agree on a doctor to perform the IME, the HR Risk Management RTW coordinator will select the doctor to perform the IME and that selection is final. The Police Department shall pay the costs of an IME.

The Police Officer shall be required by the Police Chief or HR Director to attend an IME coordinated by HR Risk Management. Failure of a Police Officer to attend an IME may result in disciplinary action up to and including indefinite suspension. If the Police Officer is not already off work, the Police Officer shall be placed on administrative leave during the IME process.

If the Police Officer's doctor refuses or fails to timely complete the City's DDS form, the results of the IME will be final and binding. The Police Officer will remain off work and must use his or her available accrued leave unless and until the IME doctor releases the Police Officer to return to work with or without restrictions; or unless and until another examining doctor returns the Police Officer to work with or without restrictions, and no questions arise about the Police Officer's ability to perform the job functions.

If the Police Officer's ability to perform the essential functions of his or her regular job is the issue, the Police Officer shall be required by the Police Chief or HR Director to attend the IME. If the IME agrees with the Police Officer's evaluating doctor's assessment, then the issue is resolved. If the IME does not agree with the Police Officer's evaluating doctor's assessment, a subsequent IME shall be required. The Police Officer must use his or her applicable accrued leave during the second IME process. The HR Risk Management RTW Coordinator will work with the Police Officer to agree upon a doctor to perform a subsequent IME. If the Police Officer and the HR Risk Management RTW coordinator cannot agree on a

doctor to perform the IME, the HR Risk Management RTW coordinator will select the doctor to perform the IME and that selection is final. The results of the subsequent IME will be final and binding.

If an IME doctor determines the Police Officer may return to work either with or without restrictions to duty, then the Police Officer must return to work on the effective date of the IME doctor's release, or the beginning of the Police Officer's next scheduled work day or shift. Otherwise, the Police Officer must remain off work and must use available accrued leave until released to return to work. Failure to return to work may result in disciplinary action up to and including indefinite suspension.

## **11.5 Inability to Perform Essential Job Functions; Employment Options**

### **11.5.1 Applicability**

This section applies to occupational, as well as non-occupational, injuries, illnesses, medical conditions and disabilities.

### **11.5.2 Ability to Perform Essential Job Functions**

Except during a temporary transitional duty period discussed in this chapter, a Police Officer returning to work following an injury or illness must be able to perform the essential functions of his or her regular job, with or without a reasonable accommodation.

A Police Officer who is unable to perform his or her essential job functions, including under the circumstances discussed in *Occupational Injury Return To Work ("RTW") Rules* or *Non-Occupational Injury/Illness Return To Work ("RTW") Rules*, may receive assistance from HR Risk Management and/or the City's ADA Coordinator to identify other possible employment opportunities within the City through an "Employment Options" process.

### **11.5.3 Employment Options**

The City's ADA/Disability Coordinator will engage the affected Police Officer in the interactive process as required under the Americans with Disabilities Act, as amended. This interactive process will include efforts by the Police Officer, the ADA/Disability Coordinator and HR Talent Acquisition to find a vacant position for which the Police Officer meets minimum qualifications, if the Police Officer can perform all of the essential functions of the job, either with or without a reasonable accommodation.

The City is not required to create a position, nor is the City required to dislocate a current Police Officer from his/her position, in order to accommodate a person's disability. If a suitable alternative position is identified, the Police Officer will be placed in the alternative position.

The HR Risk Management RTW Coordinator and/or the City's ADA/Disability Coordinator shall meet with the Police Officer and Police Department representatives to discuss and explain the options and sources of assistance that are available to the Police Officer relative to continuing employment with the city.

Police Officers unable to perform all of the essential functions of the job, either with or without a reasonable accommodation, will be placed on temporary leave pursuant to TLGC Section 143.073.

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## 12. Employee Conduct

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### 12.1 Purpose and Introduction

The City is committed to promoting the wellbeing of its Police Officers by maintaining high standards of work performance and professional conduct. The purpose of this chapter is to set forth expectations for Police Officers, and the disciplinary actions to follow in order to address unacceptable behavior, conduct, and related employment problems in the workplace, or outside the workplace when conduct impacts an Police Officer's ability to do his/her job and/or influences the City's overall effectiveness.

The ultimate goal of this chapter and its procedures is to help Police Officers become fully contributing members of the organization. Conversely, this policy is also designed to enable the departments to fairly and effectively discipline and/or indefinitely suspend Police Officers whose conduct and/or performance does not improve or where the misconduct and/or unacceptable performance is of such a serious nature that a first offense warrants indefinite suspension. Indefinite suspension is equivalent to dismissal from the department.

### 12.2 Maintaining a Respectful Workplace

Mutual respect is one of the core values of the City and is necessary to accomplish the City's mission of "*Working together to build a strong community.*" The City is committed to promoting

an environment where employees respect each other regardless of their roles and levels of responsibilities and expects all employees to be respectful and professional towards their supervisors, co-workers, citizens, and anyone doing business with the City. It is also the policy of the City of Fort Worth that employees will be treated with respect by supervisors, other employees, and people who are doing business with the City.

Examples of respectful and professional behavior include the following:

- Treating others with civility and courtesy
- Engaging in active listening
- Speaking calmly and showing a commitment towards resolving issues and problems
- Respecting and valuing the contribution of others, regardless of their role or status
- Demonstrating patience, being engaged, and listening to the concerns of others
- Listening to and following the directives of your supervisors
- Being attentive to requests from co-workers across the City and helping each other in achieving work objectives
- Effectively and productively managing disagreements with co-workers to avoid disruptions in the workplace
- Recognizing and respecting individual differences
- Abiding by applicable rules and policies, and addressing any dissatisfaction with, or violation of, policies and procedures through appropriate channels (e.g. chain of command or Human Resources)
- Demonstrating commitment to a culture where employees cooperate and collaborate to work together toward effective outcomes
- If in a leadership role, modeling respectful and professional behavior for your subordinates as an effective coaching mechanism

City employees are expected to refrain from disrespectful and unprofessional behavior, such as:

- Using threatening or abusive language, profanity, or language that is intended to be or perceived by others to be demeaning, berating, rude, or offensive
- Shouting/Yelling/Raising your voice in way that intimidates others
- Intimidating, demeaning, or bullying others
- Making threats of violence, retribution, or harm
- Using racial or ethnic slurs
- Making inappropriate jokes or using insults regarding someone's personal characteristics including sexual orientation, race, culture, age, appearance, disability or illness
- Teasing, name calling, ridiculing, or making someone the subject of pranks or practical jokes
- Using sarcasm or cynicism as a personal attack on others



- Spreading unsubstantiated rumors or gossip
- Making actual or threatening inappropriate physical contact
- Throwing tools, office equipment, or other items as an expression of anger, criticism, or threat, or in an otherwise disrespectful or abusive manner
- Engaging in any pattern of disruptive behavior or interaction that could interfere with the workplace or adversely impact the quality of services

### **12.2.1 Police Officer Responsibilities**

City of Fort Worth Police Officers are responsible for engaging in and promoting workplace behavior that creates and maintains a respectful environment that promotes effective teamwork. It is the responsibility of every Police Officer to report behaviors that are detrimental to this environment. Police Officers can report such behaviors to their supervision, Internal Affairs, or to the Employee and Labor Relations Division of the Human Resources Department.

### **12.2.2 Management and Supervisory Responsibilities**

Managers and supervisors have a greater responsibility and are held to a higher standard, not only to model respectful, professional conduct at the workplace, but also to maintain an environment of respect and effective teamwork in their work areas. Managers and supervisors should monitor the workplace for inappropriate behavior and must immediately address and report incidents of harassing behavior to their supervision, Internal Affairs, or to the Employee and Labor Relations Division of the Human Resources Department.

Managers and supervisors also have a responsibility to control the release of information only to individuals who have a need to know. When a rule or regulation allows for Police Chief or designee discretion, the Police Chief has the discretion to establish a policy that will be applied uniformly, in a nondiscriminatory manner, in all similar situations.

### **12.2.3 Discrimination and Retaliation**

The City of Fort Worth prohibits employment discrimination on the basis of race, color, national origin, sex, pregnancy, transgender status, gender identity, gender expression, religious affiliation, political affiliation or belief, age (over 40), sexual orientation, genetic information, veteran status, and disability status (including contagious diseases such as tuberculosis in the non-contagious state and HIV). In addition, the City prohibits retaliation against employees who exercise their statutory rights under state and federal employment laws. The City also prohibits retaliation against employees who exercise their rights under City policies; however, this policy does not confer additional rights to the employees under

any law. It is against the policy of the City of Fort Worth for any supervisory personnel (or personnel with the ability to do so) to retaliate (that is impose an adverse employment action) against any individual who reports discrimination or harassment, opposes a discriminatory practice, or participates in an investigation of such reports.

#### **12.2.3.1 Filing a Complaint or Report of Discrimination or Retaliation**

Employees wishing to file a complaint of discrimination or retaliation or supervisors who have had potential discrimination or retaliation reported to them should contact the Internal Affairs Division or the Employee and Labor Relations helpline at 817-392-7997.

### **12.2.4 Harassment-Free Workplace**

City employees have the right to work in an environment free of unlawful harassment (*please see the Glossary for a definition of harassment*). Unlawful harassment is a form of employment discrimination that may violate Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, (ADEA), or the Americans with Disabilities Act of 1990, (ADA).

No employee should be subjected to unlawful harassment and employees must not encourage or condone such overtures or conduct, whether verbal or physical. Any employee who engages in, perpetuates or condones unlawful behavior is subject to disciplinary action. Likewise, any individuals who are conducting business with the City (including current or prospective contractors, vendors, citizens, interns, volunteers, or agents thereof) are expected to treat employees with respect and to conform to the same workplace standards of conduct as City employees. Immediate and appropriate corrective actions shall be taken in response to unlawful harassment of City employees or by employees toward nonemployees.

Petty slights, annoyances, and isolated incidents (unless extremely serious) may not rise to the level of violations of this policy, however, may nonetheless be unacceptable for the workplace and can be addressed by the *Inappropriate Conduct* policy below. To be unlawful and a violation of this policy, the conduct must be based on an employee's protected class (see *Glossary for a definition of protected class*) status and create a work environment that would be intimidating, hostile, or offensive to reasonable people.

#### **12.2.4.1 Sexual Harassment**

Unwelcome sexual advances, requests for sexual favors, and other verbal (slurs, jokes) or physical conduct of a sexual nature constitute sexual harassment if:

- Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, or

- Submission to or rejection of such conduct by an employee is used as the basis for employment decisions affecting such employee, or
- Such conduct has the purpose or effect of unreasonably interfering with an employee's work performance or creating an intimidating, hostile, or offensive working environment.

Supervisors who pressure subordinate employees for sexual favors in return for employment opportunities or benefits may be indefinitely suspended after an appropriate pre-decision process, if the allegations of harassment are confirmed. A supervisor violates this section if the supervisor grants opportunities or benefits because of a subordinate employee's submission to the supervisor's sexual advances or requests for sexual favors, or if the supervisor denies opportunities or benefits because of a subordinate employee's rejection or refusal to submit to the supervisor's sexual advances or requests for sexual favors.

Examples of conduct that may constitute sexual harassment, particularly if repeated, pervasive, or severe in nature, include: bringing sexually explicit pictures, photographs, cartoons or objects to the workplace or sending through electronic communications; repeated requests for dates, sexual bantering, jokes or teasing; sexual innuendoes, gestures or leers; touching someone in a way that makes them uncomfortable; stalking or assault.

#### **12.2.4.2 Harassment Based on Protected Status**

Slurs or jokes, and other verbal or physical conduct relating to an employee's protected status, constitute harassment when this conduct:

- Has the purpose or effect of creating an intimidating, offensive, or hostile working environment (*Please see Glossary for a definition of hostile working environment*).
- Has the purpose or effect of interfering with an employee's work performance.
- Adversely affects an employee's employment opportunities.

An employee's intentions and motives are not the decisive factors in considering alleged harassment behavior. The effect of one employee's behavior upon another employee is the decisive factor. If an employee's behavior is considered to be offensive by another employee or if it has an intimidating effect upon another employee, harassment based on a protected status may be present. The unwelcomeness, frequency, and severity of the behavior determine whether harassment has occurred.

For questions about whether harassing behavior meets the definition(s) above, please contact the Internal Affairs Division or the Employee and Labor Relations helpline at 817-392-7997.

#### **12.2.4.3 Filing a Complaint or Report of Harassment**

Employees victimized by harassment that is based on protected status, any employee who witnesses behavior that appears to rise to the level of harassment, or supervisors who have had potential report(s) of harassment should immediately contact the Internal Affairs Division or the Employee and Labor Relations helpline at 817-392-7997.

### **12.2.5 Inappropriate Conduct**

The City has determined that the most effective way to limit harassing conduct is to address misconduct, even if it does not rise to the level of harassment actionable under the law. This policy prohibits behaviors that may not reach the level of harassment as defined in the City's Harassment-Free Workplace policy, but that nonetheless should not occur and are inappropriate in the workplace. Behavior that may not be based on a protected status, and/or is not severe or pervasive, for example, may fall under this policy instead of the City's Harassment-Free Workplace policy.

Examples of such behavior include: bringing sexually explicit pictures, photographs, cartoons or objects to the workplace or sending them through electronic communications; obscene, profane or abusive language; terms of endearment such as "doll," "honey," "sweetheart" or "babe"; using nicknames that are demeaning; teasing employees about their height or other physical attributes; mocking an employee's accent; the sending of sexual, racial, ethnic, religious jokes, cartoons in e-mail, text, faxes or other forms of communication; making racial, ethnic or religious slurs or demeaning comments; horseplay, pranks, jokes (verbal, electronic, printed or in any other medium) that demean people or have sexual, racial, ethnic, religious, or political themes.

Inappropriate conduct does not have to be based on a protected status to be prohibited. Inappropriate conduct is conduct that may not involve physical conduct or may not be as severe or pervasive but is nonetheless inappropriate and or disruptive and will not be tolerated. Inappropriate conduct also includes behavior that negatively impacts or impedes someone else's ability to perform their job duties. An employee's intentions and motives are not the decisive factors in considering alleged inappropriate conduct; the effect of the behavior on others is the main determining factor.

#### **12.2.5.1 Bullying**

The purpose of this policy is to communicate to all employees, including supervisors and managers, that bullying behavior is not tolerated at work. Employees found in violation of this policy may be disciplined, up to and including termination.

For the purposes of this policy, bullying is defined as repeated inappropriate behavior that intimidates or demeans others, either directly or indirectly, whether verbal, physical or

otherwise, at the place of work and/or in the course of employment. Reports of alleged bullying behavior should be reported to the Internal Affairs Division and the Employee and Labor Relations Division at 817-392-7997. Isolated occurrences of behaviors listed below and/or incidents of a less severe nature may be referred to department or City management (that is those who supervise the employee(s) alleged to engage in bullying behavior) to address at the discretion of the Employee and Labor Relations Division.

Bullying may be intentional or unintentional. However, it must be noted that when an allegation of bullying is made, the intention of the alleged bully is not decisive. It is the effect of the behavior on the individual that is important. The City considers the following types of behavior examples of bullying:

- **Verbal bullying:** Slandering, ridiculing or maligning a person or his or her family; persistent name calling that is hurtful, insulting or humiliating; using a person as the butt of jokes; abusive and offensive remarks.
- **Physical bullying:** Pushing, shoving, kicking, poking, tripping, assault or threat of physical assault, damage to a person's work area or property
- **Gesture bullying:** Nonverbal threatening gestures; glances that can convey threatening messages.
- **Exclusion:** Socially or physically excluding or disregarding a person in work-related activities.

In addition, the following examples may constitute or contribute to evidence of bullying in the workplace, particularly if repeated or severe in nature:

- Persistent singling out of one person.
- Shouting or raising voice at an individual in public or in private.
- Using verbal or obscene gestures.
- Not allowing the person to speak or express himself or herself (i.e., ignoring or interrupting).
- Personal insults and use of offensive nicknames.
- Public humiliation in any form.
- Constant criticism on matters unrelated or minimally related to the person's job performance or description.
- Ignoring or interrupting an individual at meetings.

- Public reprimands.
- Repeatedly accusing someone of errors that cannot be documented.
- Deliberately interfering with mail and other communications.
- Spreading rumors and gossip regarding individuals.
- Encouraging others to disregard a supervisor's instructions.
- Manipulating the ability of someone to do his or her work (e.g., giving an unreasonable work load, removing work duties, withholding information, assigning meaningless tasks, setting deadlines that cannot be met, giving deliberately ambiguous instructions).
- Assigning menial tasks not in keeping with the normal responsibilities of the job.
- Taking credit for another person's ideas.
- Refusing reasonable requests for leave in the absence of work-related reasons not to grant leave.
- Deliberately excluding an individual or isolating him or her from work-related activities, such as meetings.
- Unwanted physical contact, physical abuse or threats of abuse to an individual or an individual's property (defacing or marking up property).

### **12.2.6 Violence in the Workplace**

The City of Fort Worth is committed to providing a safe and secure work environment. Violent behavior or acts of violence between employees, or such action between an employee and any other person in connection with their City employment, is prohibited.

Any person who engages in violence or threats, verbal or physical, should be removed from the premises as quickly as safety permits. The Police Chief has the option of placing restrictions on an employee's or citizen's physical access to City premises pending the outcome of an investigation and should consult with the Employee and Labor Relations Division and/or the Legal Department before exercising that option.

Employees and supervisors must report threats and violent behavior to department management and contact the Employee and Labor Relations Division for guidance. Employees should take personal safety precautions, which may include evacuating employees for severe threats or acts of violence.

Workplace violence is behavior sufficiently severe, offensive or intimidating to cause an individual to reasonably fear for his or her personal safety or property. Such behavior creates

an unsafe, threatening, abusive or intimidating work environment. Any personally offensive, threatening or intimidating behavior is not tolerated.

Violent behavior on the job includes, but is not limited to:

- Actual physical or aggressive contact directed toward another person (e.g. hitting, punching, pushing, and kicking).
- Intentional destruction or threat of destruction of City or another person's property.
- Threatening or expressing intent to cause physical harm.
- Improper or excessive surveillance/monitoring of another person.
- Stalking (please see Glossary).
- Veiled threats (e.g. "I know where you live," "Let's take it outside," "You better never run into me in a dark alley.") of physical harm or similar intimidation.

A display of unusual agitation or excitement, possibly accompanied by incoherent and/or irrational behavior that may compromise the safety of others and/or make others feel unsafe.

Supervisors are expected to offer support to victims of workplace or domestic violence. This support includes encouragement of the victim to use the services of the Employee Assistance Program. Supervisors have discretion to grant a victim leave for medical, court or counseling appointments related to trauma or victimization.

Supervisors may also consider special accommodations or adjustments to employee work schedules, locations or working conditions to enhance employee safety.

Employees must report potential violations of the Violence in the Workplace policy to the Internal Affairs Division, the Employee and Labor Relations Division, or to their supervisors, who should in turn notify the Internal Affairs Division or the Employee and Labor Relations Division. During an investigation, ELRD will maintain confidentiality of the complainant, witnesses, and the accused to the greatest extent possible to maintain the integrity of the investigation and to make participants in the process as comfortable as possible in their cooperation with the investigation process. ELRD will notify investigation participants that because the City is a public entity, there is a possibility that information gathered in the investigation may be released to the public, with or without a Public Information Request. In appropriate circumstances, the City's Law Department may ask the Texas Attorney General's office to determine whether state law requires that information related to such an investigation can be withheld from public disclosure.

Following the completion of the investigation, the City Manager's Office may choose to share information from any employment investigations with the media and/or other parties, as

appropriate. Information gathered during investigations of complaints against sworn civil service employees will be subject to TLGC Section 143.089, and other protections that may exist under state law and any then-existing labor contract.

A violation of this policy is a serious violation of the City's Employee Conduct provision and may be grounds for disciplinary action up to and including indefinite suspension. Depending upon the relevant facts, an act of off-duty violent conduct may also be grounds for disciplinary action up to and including indefinite suspension.

## **12.3 Ethical Standards of Conduct**

It is critical as a public employee that public trust is upheld. It is declared to be the policy of the City that the proper operation of democratic government requires that public officials and Police Officers be independent, impartial and responsible only to the people of the City. Police Officers have an obligation to conduct themselves in accordance with the City's ethics rules. Police Officers who violate these regulations may be subject to disciplinary action, up to and including indefinite suspension. A supervisor should contact Internal Affairs or the Employee and Labor Relations Division of the Human Resources Department for assistance if a situation arises that might implicate the ethical standards of conduct.

Police Officers are required to comply with the City of Fort Worth Code of Ethics, §§ 2-236 through 2-239 of the Fort Worth City Code. A Police Officers who violates the City's Code of Ethics could be the subject of a complaint to the Ethics Review Commission, which could result in disciplinary action up to and including indefinite suspension. See the City's relevant webpage for more information on the Ethics Review Commission:

- <http://fortworthtexas.gov/citysecretary/info/default.aspx?id=4942>

Additional standards for ethical conduct and expectations for Police Officers that are consistent with the City's Ethics Code are outlined in the General Orders.

### **12.3.1 Improper Endorsements**

This policy relates only to endorsements that a Police Officer makes in his or her capacity as a City employee, as a representative of the City, or while being identified as an employee of the City. This policy applies whether the Police Officer makes the endorsement while on work time or not.



Except as described herein, endorsements by Police Officers are generally prohibited to avoid a potential conflict of interest as described in the City of Fort Worth's Code of Ethics. Police Officers are required to fulfill their responsibilities while avoiding any endorsement activities that impair or appear to impair their judgment in the discharge of their official duties. However, allowable endorsements are as follows:

- Endorsements that are unsolicited by the vendor or anyone acting on its behalf. Examples of allowable endorsements would include:
- A Police Officer answering an impromptu question from a colleague from another City regarding certain equipment or software the department utilizes and whether the Police Officer thinks it performs well, and
- An employee presenting the favorable results of a pilot program to City decision makers in making a determination on a purchase.
- Endorsements made as part of a reference check or due diligence by an entity seeking to conduct business with a vendor where the vendor has listed the City as a current or former client for that purpose. Police Officers contacted under these circumstances should request approval from the Police Chief or designee prior to providing information to the requesting entity.
- Endorsements approved by the City Manager. Any endorsement approved in writing by the City Manager after the terms and circumstances of the endorsement have been presented to him or her for review is allowable.

### **12.3.2 Prohibition of Seeking or Accepting Gifts**

The City expects Police Officers to avoid improper influence or the appearance of improper influence in dealings with the public. Police Officers cannot solicit, directly or indirectly, any gift from an existing or potential City supplier or customer or any person. This prohibition includes gifts to the Police Officer's spouse, domestic partner, son, daughter, or any other person in whose welfare the employee has a direct and substantial interest.

Additional terms and conditions regarding an Officer's prohibition of seeking or accepting gifts may be found in the General Orders.

### **12.3.3 Reporting Illegal or Unethical Conduct**

If a Police Officer believes that inappropriate, unlawful, or unethical conduct has occurred, they must report the suspected offending conduct to the Internal Affairs Department, their supervisor, or the Police Chief. If Police Officers do not feel comfortable reporting the matter to their supervision or the Police Chief, they can also report the issue to the Employee and Labor Relations Division of the Human Resources Department or utilize the City's third-party

reporting tool, which can be accessed via the City's intranet page, or by calling the 24-hour hotline at 888-NOW-4ACT (888-669-4228).

### **12.3.4 Unlawful Resignation or Retirement**

Pursuant to TLGC Section 143.088, Police Officers are prohibited from accepting money or anything of value in return for retiring or resigning from the officer's civil service position. An offense is a Class A misdemeanor.

## **12.4 Absenteeism**

Absence management is a key component in increasing overall workplace productivity and Police Officer morale. The purpose of this section is to provide guidance in applying administrative procedures and establishing lines of communication for dealing with Police Officer absences. Supervisors should educate Police Officers so that they understand the City, departmental and divisional policies and procedures pertaining to time and attendance. This should be done with all new Police Officers and it is advisable to review with all Police Officers on a regular basis. If a supervisor feels that a Police Officer may be developing an absenteeism problem, the supervisor should talk to the Police Officer when a problem is first identified and make sure that the Police Officer understands the importance of being a reliable Police Officer and the consequences if excessive absenteeism continues. Attendance records should be maintained on all Police Officers in a manner that is effective for each supervisor.

If absenteeism becomes a problem and impacts work productivity or Police Officer morale, the supervisor should take stronger action, including closely monitoring the Police Officer and maintaining documentation on the absences, reasons given for the absences and previous discussions with the Police Officer regarding the absences. Once the problem has been documented, the supervisor should take action that is appropriate to the situation, including imposing discipline, if necessary. Absences due to FMLA-qualified events cannot be addressed via discipline.

Absenteeism may impact a Police Officer's pay or be the cause of disciplinary action up to and including indefinite suspension. Disciplinary action may result for the following actions:

- Taking excessive or unscheduled absences (See *Glossary* for definition of unscheduled absence.) or tardiness in reporting for work or returning from lunch or breaks.

- Engaging in patterns of similar absences/tardiness situations, such as calling off work without prior authorization, leaving work early without prior authorization, or coming in later on Mondays, Fridays, around holidays, etc.
- Failing to timely notify supervisor of tardiness or absence.
- Being absent without supervisory approval.
- Failing to follow departmental call-off policies or practices.
- Being absent for three consecutive days and not notifying the supervisor, MRC, or approved departmental authority.

It shall be the responsibility of all Police Officers who cannot report for duty to notify their supervisor at the prescribed time for their respective division in accordance with the department's established standard operating procedures.

Time off with pay is a benefit for Police Officers that must be used in compliance with City policies and rules. A supervisor may deny a Police Officer's request for time off if the absence is likely to have an adverse impact on work or other Police Officers (except for instances where absences may be covered by the Family Medical Leave Act). A supervisor may deny a Police Officer's access to accrued leave and rescind previously approved time to be off work, if the reasons for the leave are found not to be valid or if there is a pattern of leave abuse.

## **12.5 Conduct Warranting Disciplinary Action**

Pursuant to TLGC Chapter 143, the Police Chief shall have the power to take disciplinary action or suspend indefinitely a Police Officer for violation of TLGC Chapter 143, the Civil Service Commission Local Rules, the City of Fort Worth Code of Ethics, §§ 2-236-239 of the Fort Worth City Code, departmental General Orders, and for violations of State, Federal, or local law. In certain disciplinary situations, the Police Chief may designate his authority to issue discipline as outlined in the then-applicable labor agreement.

In addition, Police Officers are subject to disciplinary action for violations of Personnel Rules and Regulations that are applicable to all City employees. The list below is not all-inclusive. It is a guide that summarizes the majority of situations in which discipline may be imposed. Misconduct should be assessed on a case-by-case basis.

- Failure to perform assigned work.
- Failure to perform work in a satisfactory manner, including failure to meet deadlines and /or requirements regarding quantity and quality of work.
- Failure to observe policies, procedures, rules, regulations or standards.

- Failing an alcohol or drug test, including the refusal to consent to a test, or refusing to provide a breath or urine sample, or failing to provide a breath or urine sample without sufficient medical justification when directed to do so pursuant to City policy.
- Possession and/or illegal use of drugs (including prescription drugs) and/or alcohol on the job. (See [\*Drug and Alcohol-Free Workplace\*](#) below for further information.)
- Failure of any employee to report an on-the-job injury, accident or violation of safety rules timely (i.e., within 24 hours for on-the-job injuries and immediately for any situation where safety risks and liability issues are possible).
- Engaging in behavior that threatens the safety of self, co-workers or the public.
- Possessing a record or pattern of unsafe work behavior as evidenced by multiple preventable accidents.
- Lack of attention, accuracy, caution, judgment or carelessness, or negligence and recklessness in performing work that results in waste of time and resources or creates dangerous or inappropriate situations.
- Excessive time spent on non-work activities during work time, including, but not limited to personal conversations, excessive coffee or smoke breaks, as well as personal use of electronic devices, such as use of the Internet, telephone, cell phones, or PDAs.
- Viewing, displaying or disseminating provocative, sexually explicit or obscene activities at the workplace and/or on City equipment.
- Excessive or unscheduled absence or tardiness (Please refer to the *Glossary* for further information on tardiness.) in reporting for work or returning from lunch or breaks.
- Absence without supervisory approval.
- Working for personal gain while on medical leave of absence.
- Failure to notify supervisor of tardiness in accordance with departmental attendance policies or practices.
- Misrepresentation or failure to adequately document the need to be off work.
- Failure to come to work for three consecutive days without calling a supervisor or a Medical Records Custodian (MRC) or giving any type of notification to a departmental authority (job abandonment).
- Failure to maintain or operate equipment, tools or vehicles in an appropriate and safe manner.
- Abuse, misuse, misappropriation or unauthorized removal of City money, financial resources, time and/or property.
- Falsifying, misrepresenting or omitting information for the benefit of one's self or others.
- Cheating, forging or entering false reports on official City documents including, but not limited to, time and attendance records, employment applications and supporting documents.
- Engaging in behavior that is inappropriate or disruptive in the workplace (such as yelling, use of profanity, name-calling, gossiping, etc.).
- Sabotage

- Dishonesty
- Failure to cooperate in an internal administrative process, whether as a witness, person with relevant knowledge or subject of the investigation (e.g. departmental fact-finding, Internal Affairs investigation, Human Resources investigation, Accident Review Board, etc.)
- Failure of a supervisor to timely refer a complaint of discrimination, harassment, or retaliation to the Employee and Labor Relations Division or the Internal Affairs Division.
- Sleeping on the job (before issuing discipline, contact MRC to assess if medically related)
- Discourteous treatment of others.
- Insubordination
- Possession of unauthorized firearms, weapons, illegal drugs, alcohol or any other inappropriate item in the workplace (i.e., jobsite, vehicle or any location while engaged in City business).
- Reporting to work or working under the influence of drugs or alcohol or consuming these substances during work hours.
- As a City employee, giving or accepting gifts, money or favors in exchange for some benefit to one's self or others.
- Failure to maintain confidentiality and share information with persons who do not have a need-to-know.
- Violation of written City, departmental, divisional, Administrative Regulations, City Charter work rules, procedures or policies.
- Unauthorized removal or use of property.
- Disrespectful or unprofessional conduct in the workplace (e.g. yelling, using profanity, using demeaning or abusive language, using racial slurs, etc.).
- Misuse or misrepresentation of one's position or authority.
- Failure to return to work upon conclusion of an authorized leave of absence, disciplinary suspension or failure to return to work after having been released to work by a doctor.
- Failure to maintain professional credentials and/or licenses required for the position.
- Failure to meet background requirements for the position.
- Off-the-Job Conduct — Conduct that would likely impair the trust of the public, including public intoxication, illegal drug activity or other criminal activity, domestic violence, driving while intoxicated, and slandering or defaming public officials, appointees or other City employees.
- Violation of City's Harassment rule.
- Violation of City's Violence in the Workplace rule.
- Violation of City's Inappropriate Conduct rule.
- Violation of Social Media rule.
- Violation of the Ethical Standards of Conduct rules, the City's Ethics Code and the ethics provisions of the City's Charter.

## **12.6 Disciplinary Action Procedures**

Disciplinary action shall be taken pursuant to TLGC, Chapter 143, the Police General Orders and Special Orders, or as prescribed in any then-applicable labor agreement.

## **12.7 Employee Assistance Program**

The City's Employee Assistance Program (EAP) helps Police Officers with a broad range of problems that can adversely affect their personal lives as well as their occupation. EAP can provide access to sources for counseling for Police Officers with alcohol misuse and drug abuse problems. EAP also helps Police Officers with problems, difficulties, and/or stresses on or away from the job that can adversely impact a Police Officer's ability to perform assigned duties or behave properly on the job.

Personal counseling to deal with personal crises, such as financial problems, marital problems, parental problems, and any other life stressors can be effectively addressed through the Employee Assistance Program. (See the Human Resources Website for Benefits—Wellness Program or contact the Human Resources Wellness Division for more information about EAP.)

Supervisors may recommend and encourage Police Officers to use the EAP. They can make management referrals when deemed appropriate (for example, inexplicable deterioration in job performance or behavior). Management referrals include informal, formal and mandatory referrals. Mandatory referrals to EAP for internal or external counseling are coded in the system as regular hours. Before making a management referral, the supervisor should contact the Wellness Division Manager in the Human Resources Department.

## **12.8 Drug and Alcohol Free Workplace**

Police officers are prohibited from possessing<sup>1</sup> or consuming alcohol or illegal drugs in the workplace, or from being under the influence of illegal drugs or alcohol while on duty. Police Officers who do so will be severely disciplined, up to and including indefinite suspension.

### **12.8.1 Drug and Alcohol Prohibitions**

The following are prohibited:

- Alcohol consumption in the workplace (e.g., office, any City property, vehicle, worksite, etc.).

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<sup>1</sup> "Possession" under this policy does not include "lawful possession" as defined in Tex. Health & Safety Code § 481.002.

- Being under the influence of alcohol in the workplace. A violation occurs (1) when the Police Officer has a breath alcohol concentration (BAC) confirmation test level of 0.04 or greater, or (2) when a Police Officer consumes alcohol while on duty.
- The use, possession, distribution, dispensation, transportation, sale or manufacture of illegal drugs that violates state and federal controlled-substances acts.
- The illegal use of prescription medicines, including consumption of a medication prescribed to someone other than the user, or dispensing by a Police Officer of the officer's own prescription to another person.
- Being under the influence of prescribed or over-the-counter medication on duty when the use causes impairment of job performance.

## **12.8.2 Circumstances when drug testing will be administered and the accompanying process**

12.8.2.1 The City has an interest in ensuring public safety, conducting drug interdiction, maintaining workplace safety, and in the effective administration of justice through its police officers. Accordingly, police officers may be subject to drug testing in the following situations:

### **(a) EAP.**

An EAP return to work or EAP follow-up test may be conducted only when a previous positive test has occurred or after completion of treatment.

### **(b) Post-accident.**

Police Officers who are on duty and, while driving, become involved in an accident, or police officers who are on or off duty and, while operating a City vehicle become involved in an accident, will be subject to a drug or alcohol test under the following circumstances:

- Accidents involving a fatality;
- Accident in which a person is transported for medical attention and the police officer receives a citation;
- Accident where a traffic citation is issued to the police officer and a vehicle is towed.

The City's Risk Management Division designee may also initiate a post-accident drug test when deemed appropriate.

When the accident meets the testing criteria, the Police Officer must be tested for illegal drugs within 32 hours following the accident. If circumstances prevent the drug test from being administered, the supervisor must prepare and maintain a report stating why the test was not conducted. A copy of the report must be sent to the Risk Management Division designee.

### **(c) Pre-employment.**

Police applicants will undergo drug testing as part of the pre-employment procedures. The Risk Management Division of the Human Resources Department will maintain a

controlling list of all City positions that will require pre-employment drug testing. An applicant who refuses or fails an alcohol or drug test will not be hired.

(d) Promotional.

Prior to being selected to fill a promotional vacancy, all officers who are eligible for promotion must successfully pass a drug test, which will be coordinated by the Police Department's Human Resources Department.

(e) Random.

Police Officers hold positions that are "safety sensitive", thus, officers shall be randomly selected for testing and have an equal chance of selection at an annual rate of approximately 20 percent.

(f) Reasonable cause.

Police Officers may be subject to drug testing when there is reasonable cause to believe the officer has used illegal drugs while on or off duty, as determined by someone in the rank of Captain or above who has been trained in drug detection.

A Captain, or person above the rank of Captain, will be determined to have the necessary training and qualifications to determine whether reasonable cause exists to mandate a drug test of a sworn officer if he or she has completed Standardized Field Sobriety Testing or attended the class administered by the City's Human Resources Department as described in General Employee PRR §13.8.3.3.

The Risk Management Division designee may also initiate a reasonable cause alcohol and/or drug test.

"Reasonable Cause" may be based on, but is not limited to:

- (1) observable phenomena, such as a direct observation of drug use or possession and/or the physical symptoms of being under the influence of a drug;
- (2) detection of a substance that is determined to be an illegal drug found within an area under the effective control of a Police Officer (e.g., desk, office, vehicle, worksite, etc.);
- (3) a pattern of abnormal conduct or erratic behavior;
- (4) arrest or conviction for a drug-related offense, or the identification of an employee as the focus of a criminal investigation into illegal drug possession, use, trafficking, or distribution;
- (5) information either provided by reliable and credible sources or independently corroborated, including through an admission by the officer;
- (6) evidence that the officer or employee has tampered with a previous drug test.

(g) Specialized Unit Assignments.

An officer who has applied for and been accepted into a Unit vacancy in a Specialized Unit that regularly handles narcotics, may be required to undergo periodic, mandatory drug testing up to 4 times per year, in addition to the random drug testing applicable department-wide. Periodic testing for officers in a Specialized Unit who regularly handle narcotics can



only be authorized by a Captain or above, and must be approved by a person in the rank of Deputy Chief or higher.

(h) Voluntary.

Police officers may agree to voluntarily take a drug screen at any time with approval from a Captain. If a voluntary drug screen is being administered, the process must be coordinated by Internal Affairs. In this case, if an officer does not volunteer to submit to a drug screen, he or she shall not receive discipline or be subjected to punitive action of any kind.

### **12.8.2.2 Controlled substances for which a drug test may be administered**

The controlled substances for which a test may be conducted are:

- Marijuana
- Cocaine
- Opiates
- Phencyclidine (PCP)
- Amphetamines/Methamphetamines

Drug-testing samples may be either urinalysis or hair follicle testing. If the desired sample is a hair follicle rather than urinalysis, there must be approval from the Captain over Internal Affairs, or a person at a rank above Captain.

### **12.8.2.3 Positive Drug Test Review**

When a drug test indicates that a controlled substance is present in sufficient quantity to indicate a positive test (based on a five-panel test), a Medical Review Officer (MRO) will review the test and decide whether it will be confirmed as positive. In the course of this review, the MRO or designee will contact the employee to discuss the results and give the employee an opportunity to provide information, such as use of a legally-prescribed and documented medication that legitimately explains the presence of the substance in the sample. An applicant or Police Officer who can document legal use of a prescribed drug containing an opiate, narcotic or amphetamine has a medically explained test result is not in violation of this policy.

After this consultation, the MRO will determine whether the test is confirmed as positive. If the test is medically explained, it is not confirmed as a positive test. If the test is not medically explained, the MRO will confirm the test as positive and will notify the Risk Management Division or designee. The employee is required to cooperate in consulting with the MRO. If the employee fails to communicate with the MRO, this determination will be made without the employee's consultation and the test will be confirmed as positive. The Risk Management Division designee will be directly notified of the test results and notify the department of the results.

### **12.8.3 Circumstances when Alcohol Testing will be administered and the accompanying process**

12.8.3.1 The City has an interest in ensuring public safety, conducting drug interdiction, maintaining workplace safety, and in the effective administration of justice through its police officers. Accordingly, police officers may be subject to alcohol testing in the following situations:

Testing for alcohol is conducted for the following reasons:

(a) EAP.

An EAP return to work or EAP follow-up test may be conducted only when a previous positive test has occurred or after completion of treatment.

(b) Post-accident.

Police Officers who are on duty and, while driving, become involved in an accident, or police officers who are on or off duty and, while operating a City vehicle become involved in an accident, will be subject to a drug or alcohol test under the following circumstances:

- Accidents involving a fatality;
- Accident in which a person is transported for medical attention and the police officer receives a citation;
- Accident where a traffic citation is issued to the police officer and a vehicle is towed.

The City's Risk Management Division designee may also initiate a post-accident alcohol test when deemed appropriate.

When an accident meets the testing criteria, the Police Officer must be tested for alcohol within two hours following the accident. If circumstances prevent an alcohol test from being administered within two hours, the supervisor must prepare and maintain a record that explains why a test was not administered. If the Police Officer is not tested within eight hours after the accident, the supervisor must prepare and maintain a report that explains why a test was not administered, and the time to conduct an alcohol test for an officer ends. A copy of the report must be sent to the Risk Management Division designee.

(c) Random.

If a Police Officer operates a motor vehicle that is regulated by the U.S. Department of Transportation (DOT) the officer is subject to alcohol testing.

(d) Reasonable Cause.

Police Officers may be subject to alcohol testing when there is reasonable cause to believe the officer has consumed, or is under the influence of, alcohol while on duty, as determined by someone in the rank of Captain or higher who has been trained in alcohol detection. A Captain, or person above the rank of Captain, will be determined to have the necessary training and qualifications to determine whether reasonable cause exists to mandate an alcohol test of a sworn officer if he or she has completed Standardized Field Sobriety Testing or attended the class administered by the City's Human Resources Department as described in General Employee PRR §13.8.3.3.

The Risk Management Division designee may also initiate a reasonable cause alcohol test.

“Reasonable Cause” may be based on, but is not limited to:

- (1) observable phenomena, such as a direct observation of drug use or possession and/or the physical symptoms of being under the influence of alcohol;
- (2) a pattern of abnormal conduct or erratic behavior;
- (3) information either provided by reliable and credible sources or independently corroborated, including through an admission by the officer or employee, that the officer is under the influence of alcohol while on duty;

### **12.8.3.2 Positive Alcohol Test Review**

Alcohol testing is conducted by a trained breath alcohol technician (BAT) using an Evidential Breath Testing (EBT) device. If a valid test result is less than 0.02, no further test is authorized and no action taken. If a valid test result is 0.02 or greater, a confirmation test must be run.

If a valid test result is 0.02 to 0.039, the Police Officer may not perform any safety-sensitive functions for at least 24 hours after the test, and is referred to the Wellness Manager or designee for assessment. A violation of this rule occurs when the Police Officer has a breath alcohol concentration (BAC) confirmation test level of 0.04 or greater. When this occurs the Police Officer is referred to the Wellness Manager immediately for assessment.

### **12.8.4 Refusal to Submit to a Drug or Alcohol Test administered under this Policy is a Violation.**

Except for an officer who voluntarily submits to a drug screen, an officer who is required to undergo a drug or alcohol test under this policy is required to promptly consent and report to a designated testing/collection site. Refusal to do so will be viewed as a violation of this policy, and of the applicable General Orders, and may result in disciplinary action, up to and including indefinite suspension after appropriate pre-decision procedures are followed.

The employee is required to go immediately to the location specified for the test. The employee must arrive within two hours at the designated site. The employee must provide documentation that the test was conducted within the prescribed timeframe. All drug and alcohol tests are conducted at City expense with the exception of the retest as discussed in the Appeal and Retesting section below.

Refusal to promptly consent includes:

- A Police Officer who refuses to consent to a test (i.e., will not submit a urine sample or will not report to the testing site).

- In the event of a urine test, a Police Officer who fails to provide adequate urine for testing without a valid medical explanation. A Police Officer may voluntarily agree to a blood test to avoid being indefinitely suspended for refusing to be tested.
- A Police Officer who engages in conduct that clearly obstructs the testing procedure by tampering with a urine sample, diluting a urine sample or substituting urine samples.
- After an accident that mandates post-accident testing, the driver/operator fails to make himself or herself available for a test within the time frame specified.
- After a notice to report for a random test, the Police Officer fails to report to the testing site within the time frame specified. A Police Officer should be sent for a random test within 60 minutes following notification to the Police Officer. A supervisor who notifies a Police Officer of a random test too early (i.e., more than an hour prior to sending the employee) or who delays sending the Police Officer immediately (i.e., more than one hour) after any type of test notification will be subject to disciplinary action.

### **12.8.5 Appeal and Retesting.**

An applicant or Police Officer may appeal the results of a positive drug test by requesting in writing that the collection site provide a part of the original urine sample (split sample) to another lab for retesting, all at the expense of the applicant or employee. Police Officers and applicants will NOT be allowed to submit a different urine sample for testing. Following notification of a positive drug test by the assigned departmental employee or the Risk Management Division designee, Police Officer or applicant has three business days to notify the Risk Management Division designee (in writing/email) of the decision to request a retest using the split sample from the original urine specimen. The Police Officer or applicant is then given up to five business days from the submission of the appeal of the positive drug test results to make payment in full (money order or cashier's check to the laboratory) for the retest expense.

A Police Officer is not allowed to return to work until the retest results are received by the Risk Management Division designee. The Police Officer may use any accrued leave time with the approval of the Police Chief or designee. If the retest result is negative (indicating the positive result of the first test was wrong), the City reimburses the applicant or Police Officer for the retest cost and any accrued leave time the Police Officer was required to use while waiting for retest results. The leave time used is changed to "REG" time so the Police Officer does not suffer a loss because of the erroneous test result. There is no appeal/retest process for an alcohol test because alcohol leaves the system quickly.

### **12.8.6 Notification requirements for Controlled Substance-related Convictions.**

Police Officers who are convicted of controlled substances-related violations under state or federal law or who plead guilty or nolo contendere to such charges must notify the Police Department pursuant to procedures outlined in the General Orders, as well as the Texas Commission on Law Enforcement. Police Officers must also inform the Risk Management Division designee within five days of such conviction or plea. Failure to follow these notification procedures is a violation of this policy and may result in disciplinary action, including indefinite suspension after appropriate pre-decision procedures are followed.

Police Officers convicted or pleading guilty or nolo contendere to such drug-related violations may be subject to mandatory EAP.

### **12.8.7 Medicines on the Job.**

Police Officers may use over-the-counter or prescribed medicines on the job as long as the Police Officer's performance is not adversely affected. If an adverse effect is observed that could result in an unsafe action, or if a Police Officer is unable to perform his or her assigned duties, a supervisor will relieve that Police Officer from duty and may assist with the Police Officer's travel arrangements to leave work. If an adverse effect on the Police Officer's performance is observed and verified to be caused by medication, the Police Officer must provide documentation from a physician supporting the need for the medication within five business days. Failure to provide appropriate documentation may result in a determination that the officer has neglected his duties by using unnecessary medication that has adversely affected his job performance.

A Police Officer may be referred to the Wellness Manager to evaluate his or her ability to safely perform safety-sensitive job functions while using a prescribed, or medically necessary, medication. In cases where a Police Officer is misusing or abusing a prescription drug, the Wellness Manager works with the employee to address the issue.

### **12.8.9 Employee Assistance Program (EAP) for Drug-Related/Alcohol Abuse Issues**

**12.8.9.1** The Employee Assistance Program (EAP) is available to assist Police Officers in dealing with drug-related or alcohol abuse issues for those who desire help. Police Officers can seek assistance by contacting the Wellness Division of the Human Resources Department or by contacting EAP directly. Police Officers will not be disciplined if they voluntarily seek help from EAP by contacting the Wellness Division of the Human Resources Department BEFORE they are scheduled for a random, post-accident, or reasonable cause drug or alcohol test. If a Police Officer has voluntarily sought help from EAP in the past or is currently compliant with EAP services, they are still subject to post-accident or reasonable cause drug or alcohol tests in accordance with City policy.

#### **12.8.9.2 Treatment for Alcohol or Prescription Drug Abuse**

Any Police Officer who fails an alcohol test or who has a positive drug test related to the illegal use of a prescription drug the first time and remains employed with the City must agree in writing to comply with individualized EAP-developed requirements. Police Officers will be required to cooperate with unannounced testing as directed by the Wellness Manager. If no follow-up testing is specified, the City's testing schedule will be followed. A Police Officer must agree to EAP unannounced alcohol and/or drug tests for 12 months. A Police Officer will be subject to disciplinary action up to indefinite suspension for the failure to agree in writing and/or failure to successfully comply with the EAP requirements. A Police Officer who fails an alcohol test or tests positive for drugs because of illegal prescription drug use is subject to disciplinary action up to, but not including, indefinite

suspension for the first violation. The Police Officer may be referred for an evaluation by the Wellness Manager or designee to determine the need for counseling or treatment.

### **12.8.9.3 Police Officer Drug or Alcohol Treatment**

A Police Officer who violates this policy and remains employed with the City, will be referred to a counseling and/or treatment program. Police Officers who refuse to participate or fail to successfully comply with the counseling or treatment program shall be subject to disciplinary action up to and including indefinite suspension.

Failure to successfully comply with a counseling program and/or treatment program may involve any of the following examples, which are not intended to be inclusive:

- Checking oneself out of the program against medical advice.
- Being dismissed from the program.
- Non-compliance in fulfilling the program plan as designed by the program staff/counselors.
- Non-compliance in attending the EAP's required aftercare meetings.

After a Police Officer returns to work following a positive alcohol test or drug test, any subsequent positive alcohol test and/or positive test for the illegal use of prescription drug test will result in the Police Officer being subject to disciplinary action. If it is determined that the Police Officer violated the policy for the second time, and the circumstances do not justify the violation, the Police Officer shall be subject to disciplinary action up to and including indefinite suspension regardless of the number of years between positive tests. The Wellness Division of the Human Resources Department will maintain testing records and consult with department supervision as needed.

### **12.8.9.4 Self-Referral Managed by Employee Assistance Program**

Police Officers may place themselves under formal Employee Assistance Program (EAP) case management as an "EAP self-referral" for chemical dependency (i.e., alcohol or drug-related) problems. Police Officers who place themselves under EAP case management and comply with this policy will avoid the random testing requirements of the drug and alcohol policy during their treatment. Police Officers who place themselves in treatment or counseling for chemical dependency problems without EAP case management, or without notifying the EAP manager in compliance, will NOT be exempted from the random testing requirements. A Police Officer who discusses personal problems and/or chemical dependency problems with a supervisor, union representative, chaplain, minister, friend, or coworker did NOT self-refer and will NOT be exempted from random testing requirements. Police Officers must seek assistance in compliance with this policy in order to qualify for the benefits of EAP self-referral. Police Officers who participate in EAP self-referral are required to:

- Sign a "consent to disclose document" allowing the Wellness Manager to contact the appropriate persons in the department.

- Comply with the EAP/treatment/rehabilitation program conditions and directives.
- Report any incidents of relapse, interruption or discontinuation in the rehabilitation program to the Wellness Manager immediately.

A Police Officer may NOT self-refer AFTER a test (random, post-accident, reasonable cause, or EAP follow-up) has been scheduled; however, random drug testing is temporarily suspended during the Police Officer's participation in the rehabilitation program managed by the Wellness Manager. Testing resumes when the rehabilitation program is complete or when the Police Officer failed to comply with the rehabilitation program.

Police Officers will not be disciplined for placing themselves into an EAP self-referral program. However, a Police Officer's self-referral does not prevent the Police Chief or designee from taking appropriate disciplinary action for the Police Officer's performance or conduct for other work-rule violations or placing the Police Officer in a restricted or detached duty assignment.

#### **12.8.9.5 Non-City-Sponsored Rehabilitation Program Participation**

Police Officers must notify the City's Wellness Manager within five business days after entering rehabilitation programs that are not sponsored or associated with the City. Notification may be by phone, but must be followed up in writing, which includes e-mail. Notification helps ensure that the Police Officer will not be scheduled for a random drug test. Police Officers who are in a bona fide rehabilitation program (as determined by the City's Wellness Manager), who have complied with the protocols of the program for 28 days or less, and who test positive while participating in the program, will not be subject to disciplinary action. However, the City's Wellness Manager will request an assessment to determine appropriate changes to treatment.

#### **12.8.10 Confidentiality, Records and Retention**

Information related to alcohol and drug tests is held in confidence consistent with the provisions of applicable law. The Wellness Manager and the designated Health Clinic retains confidential records relating to the substance abuse program, including training, testing, rehabilitation and litigation records. The Wellness Manager and the Clinic retain test information separate from the Police Officer's personnel file. Records of individuals who pass a test are retained for at least one year. Records of individuals who fail a test are retained for at least five years.

#### **12.8.11 Drug and Alcohol Education**

Police Officers and supervisors can request the following training through the Human Resources Department related to City drug and alcohol policies:

- Supervisors/Managers – The Risk Management Division conducts a three-hour Supervisor Drug/Alcohol Training throughout the year.
- All Police Officers –Other classes on alcohol and substance abuse are available upon request

### 12.8.12 Questions and Instructions

If you have questions about:	Then call:
Which forms to use for drug testing.	Risk Management Division designee 817-392-7419 Mobile: 682-215-3914
Employee does not bring completed Drug Test Notification Form	Risk Management Division designee 817-392-7419 Mobile: 682-215-3914
Employee is uncooperative or refuses to consent to an alcohol or drug test	Risk Management Division designee 817-392-7419 Mobile: 682-215-3914
After-Hours Collection (Monday-Friday 7 p.m.-7 a.m.; Saturday after 5 p.m.; Sunday all day)	Step One Services 1-866-997-8371* <i>*If no one answers, call 214-283-2552.</i>

## 12.9 Notification of Arrest and Conviction

Police Officers who are arrested, otherwise charged, or convicted of any felony or misdemeanor offense must notify the Department pursuant to the procedures outlined in the General Orders. Failure to do so shall result in disciplinary action up to and including indefinite suspension.

## 12.10 Unauthorized Removal and/or Misuse of City Property

The City of Fort Worth and its employees should generally only use City property, equipment, and facilities to provide services for Fort Worth citizens. The use of any City property, equipment, or facility for personal business or gain is forbidden, and any such action could result in disciplinary action up to and including indefinite suspension. Use of electronic equipment is subject to the Administrative Regulation D-7 titled *Electronic Communications Resources Use Policy*.

## 12.11 Driving and Vehicle Usage



Use of a City vehicle by an employee is neither a right nor a privilege but a trust conferred to facilitate necessary performance of job duties. City vehicles shall be assigned and used for authorized purposes only. Failure to comply with this policy may result in disciplinary action up to indefinite suspension.

The City maintains an Administrative Regulation E-6 titled *Use of City Vehicles* which is the controlling policy as related to City vehicles and driving in the course and scope of employment. The Administrative Regulation can be found on the City's intranet page at <http://www.cfwnet.org/administrative-regulations/default.htm>.

## **12.12 Solicitations**

Solicitation by or of City employees on the job without the approval of the Police Chief or designee or Human Resources Director is prohibited. Prohibitions under this policy do not apply to City-sanctioned solicitations such as the United Way campaign.

Raffles, auctions or other schemes organized and conducted by an individual for their personal gain or for another individual's gain are not allowed if other employees are solicited to participate or if the activity is conducted during an employees' work time. This does not include raffles, auctions or other fund-raising events conducted by employees to raise funds for charities or other special events that are approved for Citywide participation by the City Manager (such as annual food drive, Cowboy Santa and so on).

Individual employee-to-employee selling of goods or products must not be done during work time or interfere with the operation of the department. Instances of employees collecting money and/or goods to donate to co-workers in times of need (e.g. death in the family, personal illness, house fire, and personal tragedy) are allowed with supervisory approval.

Requests for City-wide access to employees for the distribution of materials shall be made to the Human Resources Director. Requests will be reviewed according to these criteria:

- No cost should be incurred by the City in distributing the materials
- Materials promoting for-profit businesses will be considered only if the business has no local competitor or if the business has been selected through the City's normal bidding process to provide services to employees, such as insurance and investment firms
- Materials should be directed specifically to City employees, not to the public at large

Requests for distribution of the following types of materials will not be granted:

- Materials that are primarily commercial advertising by for-profit businesses
- Materials from any individual, group, or organization who has a current contract with the City (exceptions for updates from current vendors who provide employee benefits)

- Materials from any individual, group, or organization who reasonably anticipates entering into a contract with the City in the 90 days following the request
- Materials from any individual, group, or organization who has an interest in any matter on a current or future City Council agenda
- Materials that are part of a business' regular advertising campaign being directed to the public at large

Requests by vendors who seek access to a City facility to sell goods or services to City employees shall be made to the Police Chief. Requests will be reviewed giving consideration to whether the goods or services provide a significant benefit to the employees assigned to or using the facility and whether the goods or services are of interest to a significant number of those employees.

Distributors of informational materials, newspapers or other advertising magazines leave material on City property for use by employees or visiting citizens. This practice is not encouraged or approved by the City, but it will be tolerated as long as it is done in an unobtrusive manner and in a neat and orderly fashion. Material that is found to be either offensive, controversial or not in keeping with the values of the City will be promptly removed without notification to the distributor. The City reserves the right to limit the amount and type of material left on City property as well as where this material is located.

The City has a long-standing relationship with local organizations (e.g. the Tarrant Area Food Bank and the United Way of Metropolitan Tarrant County), whose missions are consistent with City Council's Strategic Goals. Requests by additional charitable organizations for access to City employees for solicitation of donations shall be made to the Human Resources Director. Requests by external organizations are evaluated according to the following criteria:

- The organization must be tax exempt under Section 501(c)(3) of the Internal Revenue Code and the contribution the organization seeks must be deductible under Section 170 of the Internal Revenue Code.
- The organization must be headquartered in the City of Fort Worth and be governed by a voluntary board of directors.
- The organization must distribute at least 85% of its charitable receipts to health, welfare, social, or other human services programs within Tarrant County and the City of Fort Worth.

Requests made by the Police Departments for solicitation of donations to programs initiated and conducted by the Police Department will be allowed if the program is a planned objective of the department.

Requests by employees or external organizations for solicitation of charitable contributions within the Police Department or City facility shall be made to the Police Chief. Requests should be

reviewed giving consideration to whether the requested activities are consistent with the mission of the department and whether such activities would interfere with the day-to-day business activities of the department or facility.

## **12.13 Recordings and Pictures**

Police Officers must have approval from their supervisors before recording conversations or meetings or taking pictures on City-provided or personal devices. Recording conversations or meetings or taking pictures when management is unaware that it is occurring is prohibited and may result in disciplinary action, up to and including indefinite suspension. An exception may occur if a Police Officer judges that an immediate need to document a health, safety, or City liability concern is present or to document illegal activity, and it is not possible to obtain supervisory approval prior to recording or taking a picture. In such cases, a supervisor must be notified of the incident and provided the recording and/or picture at the earliest possible opportunity following the making of the recording or taking of the picture.

For example, if a vehicle accident occurs between a City and private vehicle, the Police Officer may need to take immediate pictures at the scene prior to the vehicles being towed or driven away and obtaining supervisory approval first might not be feasible with a limited timeframe.

Police Officers and/or their authorized representative may record certain proceedings as prescribed by the then-applicable labor agreement.

## **12.14 Personal Social Media Usage**

The City Manager's Office has approved social networking site access in the belief that these communication tools can be utilized to provide better services to the community. Additionally, this contributes to having a technology proficient workforce that knows not only how to use the tools but also when to use the tools.

It is the responsibility of Police Officers who use personal social media accounts and web logs (blogs) to abide by the terms and conditions outlined in the General Orders.

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# 13. Complaint Resolution

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## 13.1 Purpose and Introduction

The City of Fort Worth endeavors to provide resources to assist Police Officers who have disagreements and conflicts with other employees or supervisors. These resources range from facilitating personal discussions to resolving conflicts informally, to investigating complaints of discrimination, retaliation, or harassment.

The City complaint resolution procedures do not provide legal rights to Police Officers. The procedures implement the Fort Worth City Code and may be rewritten by the City Manager at any time, for any reason.

The complaint resolution procedures serve as guidelines to process appeals and complaints. The Human Resources Director or designee may waive procedural rules for good cause. The City encourages Police Officers to discuss complaints with their supervisors, where appropriate, to reach a satisfactory resolution. In the processing of appeals and complaints, the City endeavors to provide a process in which Police Officers are free from retaliation, restraint, interference, discrimination or reprisal. Early resolution is encouraged and can be negotiated at any step in the appeals or complaint procedures.

Except as provided for by state or federal law or as expressly modified, delegated, or abridged by the provisions of any then-applicable labor agreement or Civil Service Commission Rules, department management with input from the City Council and the City Manager's Office, shall retain the sole, exclusive, and vested right and prerogative to manage the department and its workforce and assets in all respects, including, but not limited to: the right to hire, train, promote, demote, discipline, suspend, discharge, assign, transfer, retain, or lay off employees; the right to establish, eliminate, or modify the qualifications and minimum requirements for hiring, training, promotions, transfers, and job assignments; the right to establish, eliminate, classify, reclassify, or modify the number and types of positions and job classifications; the right to assign and direct the work of Officers, including the scheduling and assignment of duties, responsibilities, and hours of work; the right to establish, eliminate, or modify the methods, processes, means, and personnel by which operations are to be carried out; the right to establish, eliminate, modify, review, and enforce rules and standards governing job performance, personal conduct and appearance, uniforms and equipment, safety, training, education, attendance, discipline, and efficiency; the right to establish,

abolish, or modify processes and procedures for investigating and reviewing Officer conduct and complaints relating to that conduct; and the right to determine the wages, hours of work, benefits, and working conditions of the Officers in the Department.

Complaints that involve management rights are not processed unless the complaint describes a discrimination, harassment, or retaliation issue. Management rights are not grievable matters. Management rights that do not involve a discrimination, retaliation, or harassment issue are likely not subject to dispute resolution measures described herein and are generally referred to department management for review and appropriate action. Police Officer performance evaluation ratings and merit increase issues (Appointed Positions) are not appealable to Human Resources under the complaint resolution processes described in this chapter unless the ratings or increase issues form the basis of a complaint of illegal discrimination or retaliation. Police Officers can discuss concerns about their performance evaluations with their supervision.

The Human Resources Director or designee makes sure complaints follow established procedures. The Human Resources Director or designee makes the final decisions pertaining to complaint resolution procedures, application, interpretation and implementation.

If a Police Officer wants to appeal an action for which an appeal or review is provided by TLGC, Chapter 143, the Police Officer must follow the procedures in TLGC, Chapter 143 or those established by the then-applicable Labor Agreement.

For questions about this chapter, please call the Employee and Labor Relations Manager.

## **13.2 Complaints of Unfair Treatment**

Police Officers who have complaints or disagreements with supervisors or general concerns of unfairness should first discuss their concerns with their supervisors and their departmental supervisory chain to resolve the matter. But a Police Officer may bypass the supervisor to file a complaint against that supervisor.

Police Officers who have complaints (e.g., wage or overtime issues, workplace environment issues, FMLA issues, etc.), disagreements with supervisors or co-workers, or general concerns of unfairness should first utilize their chain of command. The Employee and Labor Relations Division of the Human Resources Department shall consult with the Internal Affairs Division should Police Officers initiate a complaint with the City's Human Resources Department. Only complaints of unfair treatment (i.e., those that do not rise to the level of a violation of the discrimination or harassment policy) involving matters that occurred within the three months before the report date will be reviewed. The investigators may use their judgment and decide to review matters that occurred more than three months prior to the report date, depending on the severity of the complaint, and the reasons for the delay in filing a complaint. Complainants must cooperate in the investigation and provide timely and accurate information relevant to the complaint as requested by the investigators.

Failure of the complainant to cooperate may result in administrative closure of the complaint. Dependent on the nature, frequency, and severity of the matters presented in the complaint, it may also be determined that the complaint is referred back to the department for review and action as appropriate. If not referred back to the department, the Employee and Labor Relations Division of the Human Resources Department will provide notification of the outcome of the complaint to the complainant, either verbally or in writing. Written notification of the outcome of a complaint to the complainant will be dependent upon the nature of the complaint. In cases where written notification is not provided, verbal notification will be made. If written notification of the outcome is provided, it will provide information on a need-to-know basis and details of any actions taken with individuals other than the complainant will not be included.

### **13.3 Discrimination, Retaliation, Harassment Complaints**

For purposes of this section, “discrimination” refers to illegal discrimination that is based on any of the protected classes as defined in the *Glossary*.

For a definition of harassment and more information about harassment, please refer to the [Harassment-Free Workplace](#) policy in Chapter 12 and/or the *Glossary*. Harassment is determined by how unwelcomed, distressing or unpleasant the behavior is to the complainant and the frequency or severity of the inappropriate behavior.

For purposes of this section, “retaliation” refers to an adverse employment action that is alleged to be motivated by the following protected activities:

- The Police Officer has taken leave under Family and Medical Leave Act (FMLA), or the Police Officer has filed a charge, instituted a proceeding, given information in connection with an investigation under the FMLA, or testified or is about to testify in a proceeding related to the rights provided for under the FMLA.
- The Police Officer has filed a complaint or instituted any proceeding, either with the Fort Worth Human Resources Department or the Department of Labor, regarding payment of wages and overtime under the Fair Labor Standards Act (FLSA).
- The Police Officer has filed a discrimination charge or complaint based on a protected class (see *Glossary*) with the Equal Employment Opportunity Commission, Texas Workforce Commission, the Fort Worth Human Relations Commission, Internal Affairs, or the Employee and Labor Relations Division of the Fort Worth Human Resources Department.

- The Police Officer has opposed an illegal discriminatory practice based on a protected class (see *Glossary*) by testifying, assisting, or participating in any manner in an investigation, proceeding, or hearing. The Police Officer alleging retaliation under this provision does not have to belong to a class protected by the underlying law.
- The Police Officer made a good faith report of sexual harassment as defined by these Personnel Rules and Regulations.
- The Police Officer exercised rights or made a complaint to his/her department or the Human Resources Department based on the employee's veteran status under the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA).
- The Police Officer filed a workers' compensation claim in good faith; hired a lawyer to represent the Police Officer in a workers' compensation claim; instituted or caused to be instituted in good faith in a contested case under the Texas workers' compensation statute; testified or is about to testify in a contested case under the Texas workers' compensation statute.
- Whistleblower complaints\*

*\*While also a protected activity, this type of alleged retaliation has a different complaint process, explained in this chapter, below.*

The complaint process provides an avenue for Police Officers to report allegations of discrimination, retaliation, and/or harassment. It is against the policy of the City of Fort Worth for any supervisory personnel (or personnel with the ability to do so) to retaliate (e.g. impose an adverse employment action) against any individual who reports discrimination or harassment, opposes a discriminatory practice, or participates in an investigation of such reports.

Any complaint alleging discrimination, retaliation or harassment shall be construed as a claim against the City of Fort Worth. Any Police Officer may file a complaint with Internal Affairs and the Employee and Labor Relations Division alleging discrimination or retaliation if that person has received an employment action that is perceived to be adverse (e.g., discipline, transfer, substandard performance evaluation). Police Officers who have resigned or who have been indefinitely suspended may also file retaliation and discrimination complaints.

Complaints filed by a Police Officer alleging discrimination, harassment or retaliation may be filed with either the Human Resources (Employee and Labor Relations Division) or the Police (Internal Affairs) Department. Given the nature of these complaints, Internal Affairs should confer with the Human Resources Employee and Labor Relations Division to investigate and resolve these complaints.

Individual supervisors shall not investigate complaints of discrimination, harassment, or retaliation, but must refer all complaints to Internal Affairs or the Employee and Labor Relations Division as soon as they have any knowledge of such complaints. Failure of a supervisor to timely refer a complaint of discrimination, harassment, or retaliation to Internal Affairs or the Employee and Labor Relations Division may result in disciplinary action for the supervisor, up to and including indefinite suspension.

A discrimination, harassment, or retaliation complaint will be considered a claim against the City of Fort Worth, and will be investigated for review and advice of legal counsel unless otherwise determined facially invalid by Employee and Labor Relations in coordination with Internal Affairs.

#### *Filing and investigation of complaints*

Complaints must be filed in writing with Internal Affairs or the Human Resources Department's Employee and Labor Relations Division. All reports must include the following information:

- Contact information, including name, address, and telephone number of the Complainant.
- The Complainant's employee number and position (or former position) with the City.
- The nature of the alleged adverse employment action taken against the Complainant.
- The date of the alleged adverse employment action taken against the Complainant.
- The name of the Police Officer's supervisor.
- The name of the individual who allegedly caused an adverse employment action.
- The facts that are the basis for the complaint, including dates that incidents occurred; and
- Names of persons with knowledge of relevant facts, including a general statement of what they know. If it is determined from the provided information that a person named does not have information relevant to the investigation, that person might not be contacted, at the investigator's discretion.

Complainants must cooperate in the investigation and provide timely and accurate information relevant to the complaint as requested by the investigators. Failure of the complainant to cooperate or provide accurate information during the investigation process impedes the ability of the investigators to conduct a thorough review and will be noted in the findings as appropriate. It is the Complainant's responsibility to update contact information, in the event of a change.

During an investigation, Employee and Labor Relations Division will maintain confidentiality of the complainant, witnesses, and the accused to the greatest extent possible to maintain the integrity of the investigation and to make participants in the process as comfortable as possible in their cooperation with the investigation process.

Employee and Labor Relations Division will notify investigation participants that because the City is a public entity, there is a possibility that information gathered in the investigation may be released to the public, with or without a Public Information Request. The exception to this may



be complaints involving sexual harassment, which are generally more protected because of the sensitive nature of the allegations and subject matter.

In appropriate circumstances, the City's Law Department may ask the Texas Attorney General's office to determine whether state law requires that information related to such an investigation can be withheld from public disclosure. Following the completion of the investigation, the City Manager's Office may choose to share information from any employment investigations with the media and/or other parties, as appropriate. Information gathered during investigations of complaints against Police Officers will be subject to TLGC Section 143.089, and other protections that may exist under state law or a then-applicable labor agreement.

Internal Affairs, the Employee and Labor Relations Division of the Human Resources, and the Law Departments will determine on a case-by-case basis who lead investigations into complaints involving discrimination, retaliation, and harassment. Investigation findings, decisions and recommendations are also made on a case-by-case basis. Appropriate disciplinary action and or other remedial action will be taken when the findings warrant it. Generally, the disciplinary action or other remedial action will be discussed in an executive summary meeting including the Police Chief or designee and representatives from Law, Human Resources, and Internal Affairs.

At the conclusion of the investigation, the Employee and Labor Relations Division will report the findings to the Law Department. The Law Department will report the findings to the Police Chief or designee, unless the facts of the situation make that inappropriate, in which case the findings will be forwarded to the appropriate Assistant City Manager, who will take action appropriate to the findings. The Police Chief or Assistant City Manager's response is final, concludes the complaint procedure, and may not be appealed.

In general, any details regarding relevant disciplinary action would not be shared with anyone other than the Police Officer receiving the discipline and their designated representative. A Police Officer who commits any serious breach of confidentiality under this policy may be disciplined, up to and including indefinite suspension. Any Police Officer who engages in retaliatory actions as defined in this policy may be disciplined, up to and including indefinite suspension.

#### *Deadlines*

The date the written complaint is received by the Human Resources Employee and Labor Relations Division or Internal Affairs will be considered the date the complaint is filed.

A Police Officer must file a complaint of discrimination, harassment, or retaliation as defined in this policy within 300 days of the date the adverse employment action occurred or was discovered by the Police Officer through reasonable diligence.

## **13.4 Whistleblower Complaints**

It is against the policy of the City of Fort Worth for any supervisor to take an adverse employment action against a Police Officer because the Police Officer made a good faith report of a violation of law by a government entity or a public employee under the Texas Whistleblower Act, Section 554 of the Texas Government Code. This section applies to all current and former Police Officers.

A Police Officer or former Police Officer must file a complaint of retaliation for reporting a violation of law by a public employee (“whistleblower” complaint) not later than the 90th day after the date on which the alleged adverse employment action occurred or was discovered by the Police Officer through reasonable diligence.

Police Officers who have resigned or who have been indefinitely suspended may also file a whistleblower complaint. The date the complaint is received by Internal Affairs and/or the Human Resources Employee and Labor Relations Division will be considered the date the complaint is filed.

#### *Filing and investigation of complaints*

Complaints must be filed in writing with the Human Resources Department’s Employee and Labor Relations Division or Internal Affairs. All reports must include the following information:

- Contact information, including name, address, and telephone number of the Complainant.
- The Complainant’s employee number and position (or former position) with the City.
- The nature of the alleged adverse employment action taken against the Complainant.
- The date of the alleged adverse employment action taken against the Complainant.
- The name of the Police Officer’s supervisor.
- The name of the individual who allegedly caused an adverse employment action.
- The facts that are the basis for the complaint, including dates that incidents occurred and names of individuals who may have knowledge of the facts.
- The name of the governmental entity or public employee who allegedly violated a law
- The law, or a description of the law, that was allegedly violated
- The act or acts that allegedly constitute a violation of law
- The date the violation of law allegedly occurred
- The name of the entity to whom the alleged violation of law was reported
- The date the alleged violation was reported

Complainants must cooperate in the investigation and provide timely and accurate information relevant to the complaint as requested by the investigators. Failure of the complainant to cooperate or provide accurate information during the investigation process impedes the ability of the investigators to conduct a thorough review and will be noted in the findings as appropriate. It is the complainant’s responsibility to update contact information, in the event of a change. This is a prerequisite to suit under the Texas Whistleblower Act.

During an investigation, Employee and Labor Relations Division will maintain confidentiality of the complainant, witnesses, and the accused to the greatest extent possible to maintain the integrity of the investigation and to make participants in the process as comfortable as possible in their cooperation with the investigation process. Employee and Labor Relations Division will notify investigation participants that because the City is a public entity, there is a possibility that information gathered in the investigation may be released to the public, with or without a Public Information Request. The exception to this may be complaints involving sexual harassment, which are generally more protected because of the sensitive nature of the allegations and subject matter. In appropriate circumstances, the City's Law Department may ask the Texas Attorney General's office to determine whether state law requires that information related to such an investigation can be withheld from public disclosure. Following the completion of the investigation, the City Manager's Office may choose to share information from any employment investigations with the media and/or other parties, as appropriate. Information gathered during investigations of complaints against Police Officers will be subject to TLGC Section 143.089, and other protections that may exist under state law.

Investigation findings, decisions and recommendations are made on a case-by-case basis. The Human Resources Department, Internal Affairs and the Department of Law, decides how the incident/allegation/complaint is investigated. Appropriate disciplinary action or other remedial action is taken when the findings warrant it. The disciplinary action or other remedial action is decided upon in an executive summary meeting with representatives from Law, Internal Affairs, Human Resources and the Police Chief or designee. If disagreement exists among the representatives, the Police Chief may confer with the Department's Assistant City Manager to discuss the disciplinary action.

At the conclusion of the investigation, the Employee and Labor Relations Division or Internal Affairs will report the findings to the Law Department who will forward the findings to the Police Chief or designee, unless the facts of the situation make that inappropriate, in which case the findings will be forwarded to the appropriate Assistant City Manager, who will take action appropriate to the findings. The Police Chief or Assistant City Manager's response is final, concludes the complaint procedure, and may not be appealed.

In general, any details regarding relevant disciplinary action would not be shared with anyone other than the Police Officer receiving the discipline and their authorized representative in an effort to maintain confidentiality. A Police Officer who commits any serious breach of confidentiality under this policy may be disciplined, up to and including indefinite suspension. Any Police Officer who engages in retaliatory actions as defined in this policy may be disciplined, up to and including indefinite suspension.

## **13.5 Appeals**

An appeal is a formal protest over disciplinary suspensions without pay, demotions, or an indefinite suspension. Structured counselling sessions, commander's admonishments, and oral reprimands are not appealable. In addition, demotions from an appointed position to a Police Officer's last tested classification are generally not appealable. Police Officers will not be subjected to retaliation, restraint, interference, discrimination or reprisal for presenting appeals.

Eligible Police Officers may file appeals pursuant to the then-applicable labor agreement or in the absence of a labor agreement, pursuant to appeal procedures outlined in the TLGC, Chapter 143 and the local rules of the Civil Service Commission.

## **13.6 Department Grievance Procedures**

Police Officers must follow the procedures outlined in the department General Orders to file a grievance. A grievance shall mean an alleged violation or inequitable application of the rules, procedures, regulations, or policies of the police department. A grievance is a dispute that directly affects the aggrieved Police Officer and is not covered by the then-applicable labor agreement and the grievance resolution procedures contained therein. Disciplinary actions covered under Chapters 142 and 143 of the TLGC, and issued by the Police Chief or designee, are not grievable under these procedures. Assignments approved by the Police Chief or transfers shall also not be subject to these grievance procedures.

## **13.7 Reinstatement and Backpay**

Reinstatement occurs when a Police Officer appeals an indefinite suspension, the appeal is granted, and the Police Officer returns to work as a result of prevailing in the appeal. The service record of a reinstated Police Officer will reflect a break in service when full back pay is not awarded. Accrued leave benefits not paid at the time of the indefinite suspension are reinstated and immediately available to the Police Officer, unless the terms of the reinstatement specify otherwise. If the reinstatement provisions are silent on relevant reinstatement matters, those matters are processed as if full back pay was not awarded. Police Officers who are indefinitely suspended are expected to make a good faith effort to find interim employment, in order to mitigate any back pay liability.

If any back pay is awarded, the award will be reduced by the amount of income that the Police Officer received, or should have received, during the appeal as determined by the Commission or the hearing examiner. Also, if any back pay is awarded, the award will be reduced by the amount of paid leave for which the Police Officer was paid when indefinitely suspended, and the leave will be restored. All leave restored will be subject to any caps on accrual and "use it or lose it" provisions in the then-existing labor agreement or applicable City regulations and policies.

If the Police Officer was enrolled in City benefits before being indefinitely suspended, the Officer will be reinstated to those benefits, under the same terms. In cases where a Police Officer has been

reinstated following an appeal of an indefinite suspension, any back pay awards should be reported to the Fort Worth Employee's Retirement Fund.

## **13.8 Reasonable Accommodation Review and Resolution for Persons with Disabilities**

Individuals who believe the City is not in compliance with the Americans with Disabilities Act Amendments Act of 2008 (ADAAA), or who have been denied a requested reasonable accommodation under the ADA, may file a complaint with the City's Disability Program Coordinator in the Human Resources Department.

Police Officers can call the Disability Program Coordinator to request disability services, or with questions, concerns or complaints about facility accessibility, services, programs or activities related to disabilities and/or pregnancy. If the matter is not resolved through informal channels, a written complaint may be filed. The Disability Program Coordinator or designee researches the facts related to the complaint and responds to the complainant in writing. If the Complainant is not satisfied with the outcome, a written request for further review by the City Manager's Office must be submitted to the Human Resources Director within ten business days after receipt of the Disability Program Coordinator's response. The City Manager or designee reviews the matter and prepares a final written response that is sent to the Complainant as soon as practicable.

## **13.9 Police Officer Representation**

A Police Officer who is the subject of an investigation has the right to have a representative present during the interview pursuant to the terms of the then-applicable labor agreement. The Police Officer cannot be punished for making a request for representation.

The representative may not be a Police Officer who is related to the Police Officer under investigation or a witness to the incident being investigated. The representative may not speak, interrupt, or disrupt the interview in any manner. This includes but is not limited to making comments, using signs or signals, or making noises that, intentionally or unintentionally, disrupt the interview, such as sighing, tapping, or repeated coughing.

If the representative disrupts the interview in any manner except to make a reasonable request for a break, the investigator may exclude the representative from the interview room and continue the interview without the representative with the approval of the investigator's supervisor or designated supervisor.

Additional terms and conditions regarding Police Officers' rights to representation during investigations may be found in the then-applicable labor agreement.

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# 14. Glossary

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Below is an alphabetical list of terms used in this manual along with their definitions.

**Accredited school** - An educational institution approved by the Southern Association of Schools or its regional counterparts, or a technical training school or college approved by the Accrediting Commission of Career Schools or Colleges of Technology.

**Actual Holiday** – the calendar date that a holiday falls on and is generally recognized by law or societal custom as a holiday

**Administrative leave** - A type of paid leave used when an Police Officer is temporarily relieved of his or her normal responsibilities, continues to receive regular pay and benefits, and is normally required to remain at home during regular work hours. This leave type is not charged against the Police Officer’s personal leave balances.

**Adverse employment action** - Action that materially affects the terms, conditions or privileges of employment.

**Alcohol test** - A scientifically recognized chemical test that establishes an individual's breath alcohol level.

**Aliquot** - A portion of a specimen used for testing.

**Alternate duty assignment** - For purposes of the Return to Work policy, “Alternate Duty Assignment” is a job redesign or a placement to meet the needs and abilities of the individual, with work restrictions as determined by their treating physicians. Alternate duty is a transitional duty assignment, temporary in nature that is intended to bring an injured Police Officer back to work until the Police Officer is physically and mentally able to resume performance of his/her regular, full duty work.

**Appeal** - A formal protest involving an indefinite suspension, suspension, or demotion.

**Appointed Positions**-Assistant Chiefs, Deputy Chiefs, Commanders

**Average weekly wage (AWW)** - The sum of all forms of remuneration paid to the injured Police Officer for personal services in the 13 consecutive weeks immediately preceding the date of the injury divided by 13.

**Base Rate of Pay** – Pay received for a given work period that does not include overtime or special pays (holiday pay, shift differential pay, acting pay, bilingual skills pay, emergency callback pay, on-call or stand by duty pay, longevity pay, and clothing allowance).

**Bona Fide Offer of Employment (BFOE)** - An offer of employment to an injured Police Officer who is returning to work with restrictions to duty as determined by an examining doctor and the return to work is for a transitional duty assignment (light duty, limited duty, modified duty or alternate duty). The BFOE meets the requirements specified in Rule 129.6, “*Bona Fide Offers of Employment*,” of the Texas Administrative Code.

**Business days** - Monday through Friday, between the hours of 8 a.m. and 5 p.m., excluding City holidays.

**Certification incentive pay** - Extra Pay for successful completion of certified courses by the Texas Commission on Law Enforcement (TCOLE).

**Chain of custody** - Procedures to account for the integrity of each urine specimen by tracing its handling and storage from point of specimen collection to final disposition of the specimen, utilizing

an approved City chain of custody from the time of collection to receipt by the laboratory, and upon receipt by the laboratory, an appropriate laboratory chain of custody form(s) to account for the sample or sample aliquots within the laboratory (chain of custody forms, at a minimum, include an entry documenting date and purpose each time a specimen or aliquot is handled or transferred and identifying every individual in the chain of custody).

**Chargeable collision** - One in which the Police Officer's negligence, driver's error or traffic violation either caused or significantly contributed to the occurrence of the collision.

**City** - The City of Fort Worth.

**City vehicle** – A motor vehicle leased or owned by the City of Fort Worth.

**Fort Worth Civil Service Commission Rules**- These rules are controlling regarding many aspects of hiring, promotion, and discipline when not in conflict with any then-applicable labor agreement.

**Coded hours** - Paid time that have payroll codes for other than actual "hours worked." Coded hours include pay for vacation leave, sick/family leave, occupational injury, jury or court duty, military leave, compensatory time or holidays that fall on an Police Officer's regular day off, holiday premium pay, donated leave or any other pay that is not for time worked. Coded hours also include time paid as a result of some "hours worked" such as emergency callback pay. Coded hours are not considered to be hours worked for the calculation of overtime hours. Paid time off on holidays, holiday leave and personal holiday leave are an exception to coded hours. These hours are treated as "hours worked" for the calculation of overtime hours.

**Commercial Driver's License (CDL)** - A license issued by the State to authorize an individual to operate a class of commercial motor vehicle.

**Commuting/Commute** - Direct travel in a city vehicle to or from the worksite(s) of an Police Officer, including to or from an off-site parking facility including returns to the worksite(s) outside of the Police Officer's normal work hours. Commuting is not in the scope of employment.

**Compensation** - Payment of an income benefit in accordance with the Labor Code, Chapters 408, 409, and 504, and in accordance with Chapters 126 through 132 of the Rules.

**Compensatory or "Comp" Time** – Paid time off earned by Non-exempt Police Officers at a rate of one and one-half times the hours worked in excess of 40 hours in a work week and earned by Exempt Police Officers at the rate of one-hour-worked, one-hour-accrued in excess of 40 hours in a work week. The FLSA allows non-exempt Police Officers to earn compensatory time in lieu of overtime pay. A non-exempt Police Officer may earn up to 240 hours of compensatory time and then any hours worked above 40 hours in that work week must be paid as overtime. Exempt Police Officers can earn a maximum of 240 hours of compensatory time and accrual of compensatory time ceases until the exempt Police Officer's compensatory time balance goes below 240 hours.

**Compensable injury** - An injury or occupational disease that arises out of and in the course and scope of employment for which compensation is payable in accordance with the Labor Code.

**Confirmatory test** - A second analytical procedure conducted after the result of an initial test is positive, to identify the presence of a specific drug or metabolite (this test is independent of the initial test and uses a different technique and chemical principle from that of the initial test in order to ensure reliability and accuracy). At this time, gas chromatography/mass spectrometry (GC/MS) is the only authorized confirmation method for cocaine, marijuana, opiates, amphetamines, and phencyclidine.

**Course and scope of employment** - An activity of any kind or character that has to do with and originates in the work, business, trade, or profession of the employer (City of Fort Worth) and that is performed by an Police Officer while engaged in or about the furtherance of the affairs or business of the employer.

**Covered service member** - For the purposes of the FMLA, a member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness or a veteran who is undergoing medical treatment, recuperation, or therapy, for a serious injury or illness, and who was a member of the Armed Forces, including a member of the National Guard or Reserves, at any time during the period of five years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy.

**Customer** - Any person, firm or business that purchases, obtains or receives information, commodities or services from the City.

**Daughter** - For the purposes of the FMLA, a daughter is a biological, adopted or foster child, a stepchild, a legal ward, or a child of a person standing in place of a parent (in loco parentis), who is under 18 years of age or is 18 years or older and is incapable of self-care because of a mental or physical disability.

**Day** - A consecutive 24-hour period of time within a workweek beginning at 12:01 a.m. A day means 8 hours within the 24-hour period (or as otherwise defined in a then-applicable labor agreement) of time for the purpose of defining time not worked during an Police Officer's normal work shift. While an Police Officer may be scheduled to work any number of hours during a workday, a day for the purpose of leave, time off work and compensation is up to a maximum of eight hours. For example, a day off work for a full-time Police Officer for vacation, military leave, holiday, disciplinary leave, etc. would be a maximum of eight hours.

**Demotion** - Movement into a classification having a salary grade with a lower entry pay amount than the previously held classification.

**Disability supplement pay (DSP)** - Pay from the city for the purpose of supplementing an eligible Police Officer's weekly temporary income benefit for a compensable injury.

**Disability layoff/termination** - A disability layoff/termination occurs when the Police Officer terminates from the City because of an illness or accident that renders the Police Officer unable to perform the job. A disability layoff/termination can be from a job-related injury or disease or a non-job-related injury or disease. This layoff/termination will be done in accordance with Texas Local Government Code 143.073.

**Discrimination complaint** - When an Police Officer alleges disparate (unequal) treatment. The acceptable basis upon which to file a discrimination complaint includes race, color, national origin, sex, pregnancy, transgender status, gender identity, gender expression, religious affiliation, political affiliation or belief, age (over 40), sexual orientation, genetic information, veteran status, and disability status (including contagious diseases such as tuberculosis in the non-contagious state and HIV).

**Doctor** - a doctor of medicine, osteopathic medicine, optometry, dentistry, podiatry, or chiropractic who is licensed and authorized to practice in the State of Texas.

**Domestic partner** - A domestic partner is defined as an individual of the same or opposite gender as the Police Officer, who is 18 years of age or older, who has lived in the same household as the Police Officer for at least six months and shares resources of life in a close, personal intimate relationship with the City Police Officer, neither of whom is married or related by blood, if, under Texas law, the individual would not be prevented from marrying the Police Officer on account of consanguinity or prior undissolved marriage to another.

**DOT position** - A job where Police Officers may operate commercial-type vehicles and for which a commercial driver's license (CDL) is required.



**Driving Under the Influence** - Driving a motor vehicle while in a state of intoxication. The Texas Penal Code, Chapter 49.01(2) defines intoxication as "not having the normal use of mental or physical faculties by reason of the introduction of alcohol, a controlled substance, a drug, a dangerous drug, a combination of two or more of those substances, or any other substance into the body; OR (b) having an alcohol concentration of .08 or more."

**Drug** - A narcotic drug, controlled substance, or marijuana as defined in the Comprehensive Drug Abuse Prevention and Control Act of 1970, 102, 21 United States Code 802, as amended; it also includes alcoholic beverages, prescription drugs not taken as directed and illegal inhalants, as per the Texas Workers' Compensation Act of 1991 V.A.T.S. 8308-1 and the regulations promulgated there under.

**Drug test** - A scientifically recognized chemical test administered in accordance with Department of Health and Human Services guidelines which analyzes an individual's urine for evidence of marijuana, cocaine, opiates, phencyclidine (PCP), and amphetamines (this test consists of two parts, an initial test and a confirmatory test, respectively conducted with portions of the same original specimen).

**DWC-73 Work Status Report (DWC-73)** - Texas Department of Insurance, Division of Workers' Compensation form that examining doctors are required to complete after a medical examination of an injured Police Officer. The form identifies the injured Police Officer's ability to work, and any physical restrictions to work.

**Police Officer** – An individual who is post probationary, sworn and commissioned by the City to perform work for the City full-time. A contractor or volunteer is not an Police Officer.

**Education Incentive Pay-** Extra Pay for successful completion of accredited educational coursework or degree program.

**Employee Assistance Program (EAP)** - A program that assists Police Officers and their family members in dealing with emotional and personal problems, including alcohol and drug abuse, affecting or potentially affecting the Police Officer's work performance and safety.

**Equity Evaluation** – An objective assessment of compensation taking into account the experience, tenure, and/or performance of similarly situated Police Officers in appointed positions.

**Examining doctor** - A treating doctor, referral doctor, required medical exam doctor, or designated doctor who is authorized by the Labor Code and Rules to examine the medical condition of an injured Police Officer. An opinion of a "designated doctor" is given presumptive weight when resolving questions about: (1) the impairment caused by a compensable injury; (2) the attainment of maximum medical improvement; (2) the extent of the Police Officer's compensable injury; (4) whether the injured Police Officer's disability is a direct result of the work-related injury; (5) the ability of the Police Officer to return to work; or (6) issues similar to those described by items (1) – (5) above.

**Full City Contribution-** the amount budgeted by the City to be paid toward healthcare benefits for the majority of Full-Time Police Officers.

**Full duty** - Performance of the essential functions of the Police Officer's pre-injury job, with or without accommodation

**Functional Capacity Examination (FCE)** - An in-depth, detailed and technical medical assessment of a person's physical abilities to perform the person's job duties, administered by a licensed physical or occupational therapist. An FCE consists of a series of tests to measure physical strength, range of motion, and stamina of an injured person. The FCE is used to evaluate work tolerance, and the necessity for work restrictions. An evaluator skilled in functional capacity evaluation will use a battery of standardized tests, designed around key factors that include diagnosis, impairment, pain

and functional limitation, referral questions, and, in some instances, the case resolution goal. An FCE is more detailed and comprehensive than the Human Performance Evaluation (HPE).

**Furlough** - A furlough is a temporary layoff from work, during which an Police Officer is without duties or pay because of a lack of work or funds or for other non-disciplinary reasons. For the purpose of calculating deadlines under the PD Personnel Rules and Regulations, a day that has been declared by the City Manager as a mandatory furlough day is not considered a working day. Allowable work hours are determined by reducing a 40-hour workweek by the number of mandated furlough hours for that week.

**General Orders**- Police Department rules and regulations that may be more restrictive or controlling than policies in these PDPRRs so long as they do not conflict with federal, state or local law, or any then-applicable labor agreement.

**Gift** - Any benefit, favor, service, advantage, privilege or thing of value that is transferred to an Police Officer's possession or use. Gifts could include, but are not be limited to: trips, money of any amount, merchandise, foodstuffs, and tickets to sports, civic or cultural events; also included are personal services or work provided by City suppliers or customers, as well as offers of future employment from City suppliers or customers that transferred to an Police Officer's possession. Gifts ordinarily do not include items that would not ordinarily be interpreted as affecting an Police Officer's impartiality, such as an occasional, moderately priced business lunch, potted plants or flowers, boxes of candy for office personnel, "gimme caps," or advertising office supplies, such as pencils, calendars, or pens, or other token gifts of small value. All gifts that are transferred to Police Officers might be subject to review by the City's Ethics Review Commission.

**Harassment** - Negative, disrespectful, or oppressive actions of one person or group who mistreat another person or group. Harassment may include threats, insults, name calling, sabotage, and damage to property. Harassment may be based on sex, race, religion, or other protected categories, and may include express or implied threats of personal harm, including threats and demands.

**Hostile work environment** - A condition in the workplace in which harassment, based on protected class, occurs toward one or more Police Officers; the harassment typically must be intentional, severe, recurring or pervasive, and interfere with an Police Officer's ability to perform his or her job whether victim or witness; the victim or witnesses typically must reasonably believe that tolerating the hostile work environment is a condition of continued employment. In other words, the victim or witnesses typically must reasonably believe that they have no choice, but to endure a hostile workplace in order to keep their jobs.

**Holiday** - A period of eight hours (unless otherwise defined by a then-applicable labor agreement) designated by City Council as a day that nonessential City services and offices are closed and Police Officers may take off from work with pay.

**Hours worked** - The time a Police Officer is required to be on duty, on the employer's premises, or at a prescribed workplace.

**Human Performance Evaluation (HPE) - Human Performance Evaluation (HPE)** - A physical abilities test performed by a physical or occupational therapist. The HPE is a scientifically valid simulation of physical work performed by Police Officers who are in moderate to heavy physical demands job classifications. The purpose of the HPE is to assess an Police Officer's ability to pass the simulated work test prior to returning to work. The HPE is administered by the City's contracted preferred provider of occupational health services. The Police Officer must attend and pass the HPE before returning to work after being off from a workers compensation illness or injury. The HPE is less detailed and less comprehensive than the Functional Capacity Evaluation (FCE).

**Illegal use of a prescription medicine** - Means taking medication that has been prescribed to someone else. It also means taking medication after the expiration date has passed or taking more medication than has been prescribed.

**IME doctor** - A doctor who performs an IME (Independent Medical Exam).

**Immediate family member** - In the case of all leave policies other than the Family and Medical Leave Act (FMLA), an **immediate family member** is defined as wife, husband, domestic partner, mother, father, grandmother, grandfather, brother, sister, son, daughter, mother-in-law, father-in-law, son-in-law, daughter-in-law, grandson, granddaughter, stepmother, stepfather, stepson, stepdaughter, stepbrother, stepsister, aunt, uncle, niece, nephew, sister-in-law, brother-in-law, grandmother-in-law and grandfather-in-law. This includes extended family members for domestic partners. For the purpose of Family Leave under FMLA, immediate family members are limited to an Police Officer's spouse, children and parents.

**Income benefits** - Compensation made to an Police Officer for a Compensable Injury.

**Independent medical exam (IME)** - A medical examination by a doctor who is not the Police Officer's treating doctor or preferred medical provider under the city's health benefits program. The IME is performed by a doctor who is neutral and performs the medical examination to determine factors such as whether the Police Officer: can return to work; has temporary or permanent disabilities; or has reached MMI.

**In loco parentis** - For the purpose of FMLA, "in loco parentis" may be established by providing day-to-day responsibilities to care for or financially support a child, or who had such responsibility for the Police Officer when the Police Officer was a child. Examples include a grandparent who assumes ongoing responsibility for raising a grandchild or an Police Officer who provides day-to-day care for his or her unmarried partner's child (with whom there is no legal or biological relationship) but does not financially support the child.

**Insubordination** - Willful failure or refusal to follow specific orders or instructions of a supervisor.

**Interactive Process** - A request for reasonable accommodation or the recognition that a reasonable accommodation may be needed is the first step in an informal, interactive dialogue between the individual and the employer. In some instances, before addressing the merits of the accommodation request, the employer needs to determine if the individual's medical condition meets the ADA definition of "disability," a prerequisite for the individual to be entitled to a reasonable accommodation. This process should facilitate an open exchange of information between the Police Officer and employer. The goal is to ascertain the precise job-related limitations, how the limitations may be overcome with a reasonable accommodation, to identify potential accommodations and to assess their effectiveness

**Job abandonment** - When an Police Officer fails to come to work for three consecutive days without calling a supervisor or a medical records coordinator or giving any type of notification.

**Labor Agreement**- Refers to any then-applicable labor agreement between the City of Fort Worth and a legally authorized bargaining agent for the police officers working for the City of Fort Worth.

**Labor code** - The Texas Workers' Compensation Act as codified in the Texas Labor Code, Title 5, Subtitle A.

**Lactation** - Expression of breast milk to store for a baby's later use.

**Lateral transfer (or transfer)** - The movement of a Police Officer from one position to another position in the same classification with the same pay grade.

**Lateral hire**- The employment of a police applicant directly from another law enforcement agency.

**Life-changing event** - A life-changing event for the purpose of benefit eligibility and administration consists of one of the following:

- Death of the Police Officer.
- Death of the Police Officer's spouse.
- Death of an Police Officer's dependent.
- Marriage of the Police Officer.
- Divorce of the Police Officer.
- Birth or adoption of a child.
- Loss of outside health coverage.
- Change of Police Officer's employment status.
- Change in spouse's employment status.

**Limited duty** – See “Transitional duty” below.

**Long-term disability** - Type of insurance that protects income against a sudden loss due to a catastrophic illness or injury. It replaces lost wages due to the illness or injury.

**Look-back Measurement Period** - Refers to the period used to calculate the average number of hours an Police Officer actually worked per work week in order to determine eligibility for health benefits and City contribution during the immediately ensuing “stability period” under provisions of the federal Patient Protection and Affordable Care Act (PPACA) that take effect January 1, 2015.

**Maximum medical improvement (MMI)** - The earlier of:

- 1) the earliest date after which, based on reasonable medical probability, further material recovery from or lasting improvement to an injury can no longer reasonably be anticipated;
  - 2) the expiration of 104 weeks from the date on which income benefits begin to accrue;
- or
- 3) the date a Commissioner of Insurance order for an extension of the 104 week period expires.

**Medical records custodian (MRC)** - Staff person designated by the Police Chief or designee to serve as the department's custodian of Police Officer medical records. The MRC performs the functions specified in Administrative Regulation D-10 “Protection of Medical Information.”

**Meet and Confer Labor Agreement-** A contract entered into under the TLGC, Chapter 143, Subchapter I, *Fire Fighter and Police Officer Employment Matters in Certain Municipalities* preempts any contrary personnel rule or regulation herein, unless otherwise provided for in such contract.

**Normal scheduled hours** - The hours of work scheduled by management that an Police Officer is required to work for the routine performance of duties. Normal scheduled hours do not include overtime hours worked, on-call duty, or stand-by duty.

**Observed holiday** – the day that the City designates as a holiday, which generally means that an Police Officer is not required to perform work on that day and that business offices may be closed, even though the day would normally be a business/work day if the holiday was not acknowledged. Typically, when the actual holiday falls on Saturday, the observed holiday will be on the previous Friday and when the actual holiday falls on a Sunday, the observed holiday will occur on the following Monday.

**Occupational Leave/O Days-** Leave given a Police officer injured in the line of duty. Police Officer's receive 100% salary supplement payments directly from the City beginning with the first day of lost time.

**Off-site parking facility** - City facilities and other locations along the Police Officer's reasonable commute route to and from the worksite(s) that are determined to be adequately secure by the authorizing department and are approved for the purpose of parking a city vehicle during non-work hours. Selection of an off-site parking facility is made based in part on the convenience of the facility

to an individual Police Officer. Travel between an off-site parking facility and an Police Officer's worksite(s) is not in the scope of employment.

**Off-site parking vehicle** - A city vehicle approved for use by authorized Police Officers for a portion of his/her commute from the workplace to another City or other approved facility for the purpose of parking during non-work hours.

**On-call** - Occurs when an Police Officer is not required to remain on the City's premises but is asked to leave word at his/her home or with his/her supervisor as to where and how he/she might be reached for callback. Police Officers assigned to an "On-Call" status may be asked to have a cell phone or other communications device available to receive calls. On-Call time is not work time, therefore, it is not paid time

**Overtime**- The time worked in excess of 40 hours in a defined FLSA workweek. Hours actually worked and leave categories that are counted as hours worked for the purpose of computing overtime (Holiday Leave, Holiday Leave Accrued, Personal Holiday Leave, Special Personal Holiday Leave).

**Parent** - The biological or adopted parent of an Police Officer or an individual who stands or stood in place of a parent (in loco parentis) to the Police Officer when the Police Officer was a child. This does not include "parents-in-law."

**Pay period** - Regularly recurring period of 336 hours in the form of 14 consecutive 24-hour periods.

**Person within the first degree of relation** - Spouse or domestic partner, father, mother, son, daughter, father-in-law, mother-in-law, son-in-law, daughter-in-law.

**PIP** - Acronym for Performance Improvement Plan. This is a plan written by a supervisor for the purpose of counseling an under-performing Police Officer, and assisting the Police Officer in improving the quantity and/or quality of the Police Officer's work.

**Pre-decision meeting** - A meeting that allows an Police Officer an opportunity to respond to the reasons being considered to issue a disciplinary action.

**Program** - In regards to alcohol and drug misuse, refers to the City alcohol and drug abuse program that implements the policy and procedures for prevention, deterrence, and rehabilitation aimed at eliminating the possession, use, distribution, sale, or consumption of drugs or alcohol in the workplace.

**Promotion** - Movement into a classification having a pay grade with a higher entry rate than the previously held classification.

**Protected classes** - Race, color, national origin, sex, pregnancy, transgender status, gender identity, gender expression, religious affiliation, political affiliation or belief, age (over 40), sexual orientation, genetic information, veteran status, and disability status (including contagious diseases such as tuberculosis in the non-contagious state and HIV).

**Regular rate of pay** - Regular rate of pay includes: (holiday pay, shift differential pay, acting pay, bilingual skills pay, emergency callback pay, on-call or stand by duty pay, longevity pay, and clothing allowance).

**Regular/Normal retirement** - A termination type that occurs when the Police Officer terminates employment for the primary purpose of retiring from the City to receive a monthly pension.

**Remote parking facility** - A City facility or other approved location at which an Police Officer is directed to park a City vehicle due to limitations at the primary site or for the operational convenience of the City. Selection of a remote parking facility is made without regard to the convenience of the facility to an individual Police Officer. Travel between a remote parking facility and an Police Officer's worksite(s) is in the scope of employment.

**Rule(s)** - Administrative rule(s) or regulation(s) promulgated and adopted by the Commissioner of Insurance, Department of Workers Compensation, as necessary for the implementation and

enforcement of the Labor Code. The applicable Rule(s) are published in the Texas Register and are codified in the Texas Administrative Code, Title 28, Parts 2 and 6.

**Sabotage** - Destruction of City property or equipment or a deliberate action taken to undermine a coworker or department's work or productivity, either by active means, such as vandalizing equipment, or by passive means, such as refusing to meet productivity goals, i.e., a work slow-down.

**Scheduled hours** - A timekeeper or manager may assign any work schedule with any number of hours to any Police Officer.

**Scope of employment** - Has the same meaning as set out in the Texas Tort Claims Act, being Tex. Civ. Practice and Remedies Code, Chapter 101, as it may be amended from time to time

**Secondary employment** - Any job, work or business, part-time or full-time, for self or another person, firm, company or organization, for which salary or other economic benefits, including free or discounted goods or services, are received.

**Shift** - An assigned work schedule of consecutive regular hours that when worked or when leave is used result in the Police Officer earning pay for a 40-hour work week. The number of assigned shifts or shift hours will not exceed 40 hours in a week. An assigned shift may result in shift hours occurring in two consecutive days. Shift hours will be reported on the day the hours were worked for pay, leave and benefits such as holiday time.

**Solicitation** - Requests for support, usually financial, for an organization or cause, such as a charity, religious organization, Police Officer association, personal profit, or civic activity. Solicitations usually involve distribution of information and literature, and often include sales of products, and requests for donations of service, money, or goods.

**Son** - For the purposes of FMLA, a son is biological, adopted or foster child, a stepchild, a legal ward, or a child of a person standing in place of a parent (in loco parentis), who is under 18 years of age or is 18 years or older and is incapable of self-care because of a mental or physical disability.

**Spouse** - A husband or wife as defined or recognized under State law for purposes of marriage or a common-law spouse as recognized by the State of Texas. Unmarried domestic partners are not spouses.

**Stalking** - Repeated unwanted contact between two people that directly or indirectly communicates a threat or places the victim in fear. Stalking behaviors include but are not limited to: following a person; appearing at a person's home or place of business; excessive phone calls; sending letters or e-mails; leaving written messages or objects; or vandalizing a person's property.

**Straight-time** – This term refers to an Police Officer's regular pay rate for the hours worked during a work week, as opposed to over time.

**State Division of Workers' Compensation (DWC)** - Texas Department of Insurance/Division of Workers' Compensation, the State of Texas agency authorized by the Texas Legislature to implement and enforce the Texas Workers' Compensation Act in Texas.

**Substance abuse professional (SAP)** - In regards to alcohol misuse, refers to an individual who has clinical experience in recognition and treatment of alcohol/drug dependency and meets all DOT qualifications.

**Supplanting** – to deliberately reduce or reallocate state, local or agency funds because of the acceptance or anticipated acceptance of federal grant funds.

**Supplier** - Any existing or potential City vendor, consultant, contractor, developer, regulatory agency, or any public utility corporation having a franchise granted by the City.

**Suspension** - A period of time during that an Police Officer is prohibited from reporting to work and/or performing any job duties. A suspension might be either paid or unpaid. Paid suspensions are usually issued during a time that an investigation is being conducted and it is necessary to remove

the Police Officer from the workplace until a decision has been made about their employment. Unpaid suspensions are usually issued as disciplinary actions for work rule violations.

**Tardiness** – For timekeeping system purposes, clock-in times may be rounded up or down based on seven minute increments. For example, arriving for an 8:00 am shift at 7:52 am (more than 7 minutes early for your shift), might result in the payroll system recording your arrival time at 7:45am. Clocking in at 8:08 am may result in your start time being recorded in the timekeeper system as 8:15 am. Regardless of timekeeping rounding, you are required to notify your supervisor and receive approval as needed for early or late start times that differ from your work schedule. For disciplinary purposes, attendance and tardiness will be addressed based on your assigned schedule and any failure to be ready to work at the scheduled times.

**Temporary shift** - A supervisor removes an Police Officer from his or her regular shift and temporarily assigns the Police Officer to a different shift for training, minimum staffing, meetings or other reasons.

**Temporary income benefits (TIBS)** - Wage replacement benefits to an injured Police Officer who loses wages because of time away from work due to a compensable injury. The amount of TIBS is equal to 70 percent of the Police Officer’s average weekly wage, subject to the maximum benefit amount set by DWC.

**TIBS waiting period** - The first seven (7) calendar days of “disability” due to an injury. “Disability” under the Labor Code is defined as “the inability to obtain or retain employment” because of the injury. Disability is basically equivalent to days of lost time. The workers’ compensation TIBS waiting period does not apply to injured Police Officers.

**TPA - third party administrator** - The organization under contract with the City of Fort Worth to provide workers’ compensation claims administration services in accordance with the Labor Code and in accordance with the Insurance Code, Title 13, Subtitle D, Chapter 4151, Subchapter A, *Third Party Administrators*.

**Transitional duty** – Formerly known as “limited duty”. A temporary return-to-work assignment based on an examining doctor’s assessment of the Police Officer’s medical condition and identified restrictions to duty. Transitional duty may consist of: (1) temporary modifications to the Police Officer’s normal job duties; (2) assignment to alternative duties within the department; or (3) assignment to alternative duties provided by another city department. A transitional-duty assignment is made through a bona fide offer of employment. A transitional -duty assignment is not a permanent work assignment or job. The transitional-duty assignment must be productive work, consistent with the evaluating doctor’s identified restrictions to duty, and the Police Officer must possess the necessary skills to perform the assignment.

**Unprofessional conduct** - Conduct contrary to reasonable behaviors or expectations for an Police Officer while at work or while conducting city business or representing oneself as a city Police Officer on or off the job.

**Unscheduled absence** - An absence is unscheduled when an Police Officer does not give advance notice and receive supervisory approval prior to the scheduled shift start time. Advance notice should typically be given at least 24 hours in advance of scheduled shift but supervisory approval can be given within less than 24 hours for emergency situations.

**Use of alcohol or a drug** - The consuming of an alcoholic beverage, the taking of a drug (whether orally, by inhalation, or by injection), or being under the influence of alcohol or a drug.

**Vacation leave** – Paid time used by an Police Officer to take care of personal matters, to relax and to enjoy time off from work.

**Workers' compensation coordinator (WCC)** - Staff person designated by the department director to assist Human Resources in administering the workers' compensation program.

**Workers' compensation leave (WCL)** - Time away from work so that an injured Police Officer can attend a health care appointment for a compensable injury. The time is recorded as "WCL" and is paid at the Police Officer's regular pay rate.

**Work schedule** - The assigned, regularly reoccurring work shifts that an Police Officer is expected to work in a workweek.

**Work time** - See "hours worked."

**Workday** - For most Police Officers, the standard period of 24 hours, which begins at 12:01 a.m. and ends at midnight. Any schedule that is so unusual it will not allow the tracking of leave will be handled as an eight-hour day for purposes of determining leave.

**Working day** - Days on which the affected Police Officer is regularly scheduled to work. For purposes of suspensions, a working day is eight hours in duration, even if the Police Officer is regularly scheduled to work more hours in a day. Therefore, a suspension of one day will equal eight hours without pay.

**Workplace/Worksite** - All City offices, facilities, construction sites, temporary laboratory sites, maintenance sites, vehicles and any other location where an Police Officer is performing assigned duties.

**Workweek** - The time span of seven consecutive 24 hour periods within which the City calculates overtime hours and corresponding compensation for nonexempt Police Officers (hours over 40). The workweek begins at 12:01 a.m. on Saturday morning and ends at midnight on the following Friday for most Police Officers. This must not be confused with the "work schedule."

Department directors or designee may adjust the work schedule to adequately cover the work to be performed. Changes in the workweek must be approved by the Human Resources Department and implemented in the pay system.

**Year** - A calendar year beginning January 1<sup>st</sup> and ending December 31.