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LAW ENFORCEMENT ASSISTANCE ADMINISTRATION (LEAA)

POLICE TECHNICAL ASSISTANCE REPORT

SUBJECT: Review of Departmental Rules and Regulations

PROJECT NUMBER: 76-193-101A

FOR: Addison, Illinois, Police Department

Population: 28,000

Police Strength:

(Sworn)	43
(Civilian)	12
Total	<u>55</u>

Square Mile Area: 7

CONTRACTOR: Public Administration Service
1776 Massachusetts Avenue, N.W.
Washington, Illinois 20036

CONSULTANT: Charles D. Hale

CONTRACT NUMBER: J-LEAA-002-76

DATE: July, 1977

43412

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- A - Consultant's guidelines and comments furnished to
Lt. A. Gorr of the Addison Police Department

FOREWORD

This report, which was prepared in response to a request for technical assistance from the Addison, Illinois, Police Department, chronicles the rendering of that assistance in the form of counseling and advice during the preparation of updated departmental rules and regulations.

The consultant assigned to this project was Mr. Charles D. Hale; others involved in processing the request were:

Requesting Agency Mr. David M. Gellatly
 Chief of Police
 Addison, Illinois

State Planning Agency: Ms. Jane Rae Oksas
 Associate Director
 Illinois Law Enforcement Commission
 Chicago, Illinois

Approving Agency: Mr. Gordon D. Nelson
 Assistant Administrator
 LEAA Region V (Chicago)

 Mr. Robert O. Heck
 Police Specialist
 LEAA Office of Regional Operations

I. INTRODUCTION

In response to Chief David M. Gellatly's request for technical assistance in the form of guidance in developing a revised rules and regulations manual, the consultant met on-site on January 5, 1977, with the Chief and his Operations Commander to discuss the project. The Addison Police Department had decided to revise and update its rules and regulations as a result of legal repercussions to certain portions of the existing manual that deal with disciplinary action. As a preliminary step, the department had set up a task force composed of representatives of various ranks and components of the department. Under the direction of the Operations Commander, the task force involved itself in reviewing rules and regulations manuals from other police departments for style, format, and content ideas that might be incorporated in the new Addison manual.

In addition, the consultant examined pertinent documentary material supplied by the department before meeting with the task force to discuss the specific issues involved in their approach to police rules and regulations. His role was to offer overall guidance, outline general areas to be considered by the task force in its deliberations, and suggest reference materials for their review, particularly International Association of Chiefs of Police documents dealing with police discipline. On April 20, 1977, the consultant reviewed and made suggestions regarding a draft copy of the new rules and regulations manual prepared by the task force and submitted by Operations Commander. On July 25, the Operations Commander advised that the manual had been completed

II. ANALYSIS OF THE PROBLEM

It is obvious, first of all, that police departments, due to the demanding nature of their work and their structured organization, require adequate guidelines for the conduct of their employees, both on and off the job. These guidelines should be both specific in nature as well as sufficiently flexible to allow for the exercise of individual discretion and judgment.

There are few good models which can consistently be followed in the preparation of police rules and regulations. Too often, police departments borrow from each other with the result that the rules and regulations contain many provisions which are either vague or do not apply to specific local problems and circumstances. Thus, careful thought and deliberation must go into the preparation of police rules and regulations. Moreover, it is useful to obtain departmentwide participation in the process of developing rules and regulations in order to ensure greater acceptability of the final results.

The task force approach as used in Addison is one way in which to encourage employee participation in those policies and decisions which directly affect them. While this approach is somewhat time-consuming, it generally ensures a higher degree of success in terms both of the adequacy of the final product and support for it within the department.

III. CONCLUSIONS

The work of the task force was instrumental in mobilizing departmentwide support for the task of modifying the department's existing rules and regulations. In such a situation, with the department being involved through the task force, the role of the consultant should be to offer guidance and assistance in the process rather than to prepare the rules and regulations himself. It is rare that a consultant, particularly working under time limitations, can be sufficiently knowledgeable about a particular agency to prepare a rules and regulations manual uniquely suited to the needs and requirements of the individual department.

IV. RECOMMENDATIONS

During the course of this technical assistance assignment, the consultant did not become actively involved in the preparation of the rules and regulations manual; however, he was able to provide members of the task force with general guidance which helped to give direction to their deliberations and to comment specifically on their initial draft (see correspondence in Appendix A). It appears useful for an "outside" party to review and comment upon the work of such a task force in order that an objective, disinterested evaluation can be obtained.

It is therefore recommended that an approach similar to the one described herein be applied when law enforcement agencies request technical assistance for the purpose of upgrading their internal rules and regulations.

APPENDIX A

DIAL 947-2000 AREA CODE 312 · CABLE ADDRESS: PASHQ
PUBLIC ADMINISTRATION SERVICE
1313 EAST SIXTIETH STREET · CHICAGO ILLINOIS · 60637

January 6, 1977

Lieutenant A. Gorr
Addison Police Department
130 Army Trail Road
Addison, Illinois 60101

Dear Lieutenant Gorr:

In keeping with our discussion yesterday, the following guidelines are offered concerning your efforts to revise the Department's manual of rules and regulations.

Subject Matter

Every effort should be made to exclude extraneous data which are more appropriately covered in general orders and procedural guidelines. A good way to think of rules and regulations, I believe, is a body of directives governing officer conduct. Thus, "rules of conduct" would be synonymous with "rules and regulations." As we discussed yesterday, all matters not specifically relating to conduct should be covered in "operational guidelines" published in the form of general orders.

Brevity

Brevity, simplicity, and conciseness are essential. Every effort should be made to avoid ambiguous and overly detailed phraseology. However, when appropriate, a brief narrative explanation of the rule may be useful.

Content

I would strongly urge you to review the text recently published by the IACP prior to "going to press" with your final revision.^{1/} While I have not yet seen the publication, the two handbooks that I have reviewed seem to contain some useful material, as outlined below.^{2/}

The IACP survey revealed that police officers understood management expectations more fully in those agencies where rules were clearly defined, where input was sought from employees, and where rules and regulations were incorporated into agency training programs. (Executive Summary, p. 9). The existence of your committee, as representative of the Department, is certainly a step in the right direction insofar as developing employee input is concerned.

While rules and regulations should incorporate a degree of permanence, they should be periodically reviewed and revised as necessary.

The interpretation and in particular the application of rules and regulations by the supervisor is critical. The purpose of having a sound body of rules and regulations will be defeated if the application is inconsistent or if a "double standard" appears to exist. For this reason, training of supervisory personnel is essential.

Employee perceptions concerning the fairness of rules and regulations, as they exist and as they are enforced, are also critical. The IACP found, for example, that rules concerning personal grooming and off-duty employment were less well received by employees than were rules concerning such matters as courtesy to public and acceptance of gratuities. The following figure shows the work order of employee perceptions covering various rules: (Executive Summary, pp. 32,33).

^{1/} Managing for Effective Discipline: A Manual of Rules, Procedures, Supportive Law and Effective Management (Gaithersburg, Md.: International Association of Chiefs of Police, 1976).

^{2/} Executive Summary: Major Recommendations for Management of Effective Police Discipline and Supervisors' Handbook: Guidelines for Taking Police Disciplinary Action (Gaithersburg, Md.: International Association of Chiefs of Police, 1976).

Rules	Rank Order ^{a/}	
	Fairness as Written	Fairness as Enforced
1. Off-duty employment	13	13
2. Operation of police vehicle	4	4
3. Hairstyle, mustache, and beard	14	14
4. Courtesy to public	1	1
5. Physical force	5	5
6. Use of firearms	7	3
7. Late for duty	3	9
8. Moral conduct	8	10
9. Insubordination	6	7
10. Personal debts	10	6
11. Criticism of department	12	11
12. Use of alcohol off-duty	9	12
13. Gratuities	2	2
14. Residency	11	8

^{a/} The higher the rank (i.e., 14), the lower the degree of perceived fairness.

Tables 3 and 4 of the IACP Executive Summary (attached) show reasons given by employees for believing specific rules to be unfair.

The IACP Executive Survey also offers several model rules, with commentary, which are generally applicable to most police agencies, and which you may wish to include in your draft document. I have attached a copy of these.

The IACP Supervisors' Handbook offers several other guidelines, which I have summarized below:

1. Unbecoming Conduct. This is a general "catch-all" category which most departments use in the absence of more specific prohibitions against certain types of conduct. There is nothing inherently wrong with this type of clause, but specific rules should be cited whenever possible. To charge an employee with a violation of this rule, one of two criteria should exist:

- a. The conduct impairs the operations of the Department, or
- b. The conduct causes the public to lose confidence in the Department.

If neither of these criteria can be applied, there is no violation of the rule.

- 2. Off-duty Conduct. In general, the same two criteria specified above apply to off-duty conduct. Some off-duty conduct, such as outside employment, may be prescribed by specific rules. Other types of off-duty conduct, such as intoxication, probably cannot be prohibited unless one of the two criteria apply.
- 3. Immoral Conduct. Moral standards are difficult to define and specify and even more difficult to enforce. Generally, the same two criteria specified above can be applied to the enforcement of this rule.
- 4. Insubordination. A police department, due to its semi-military structure and the very nature of the work it performs, requires strict obedience to lawful orders. In general, it is illegal for a subordinate to fail to carry out the order of a superior officer if:
 - a. The order was itself lawful;
 - b. The order was within the purview of the supervisor who issued it, as established by departmental policy; and
 - c. The order was reasonable.
- 5. Unsatisfactory Performance. This charge is difficult to establish due to generally vague expectations of what constitutes acceptable performance. To prove unsatisfactory performance, systematic documentation of consistent incidents of poor work performance is usually required, along with proof that the employee's general standard of performance is below that expected and performed by other employees.

6. Neglect of Duty. This relates to a failure to perform a required act, such as:
 - a. Failure to report for roll call.
 - b. Leaving an assigned post without permission or good cause.
 - c. Overlooking flagrant violations of the law, such as vice conditions.
 - d. Permitting prisoners to escape.
 - e. Permitting or failure to report infractions by other officers.
7. First Amendment Rights. Constitutional guarantees regarding freedom of speech, assembly, and association should be reviewed along with pertinent case law. The Illinois Chief's Police Service Bureau manual should be reviewed in this respect. Legal counsel should also be sought for the purpose of reviewing sections pertaining to constitutional guarantees. Considerable laxity has been permitted by the courts in interpreting the rights of public employees, including police officers, with respect to such matters as freedom of speech and expression, political activities, and the rights of police officers subject to investigation of their conduct. Moreover, at least one state (California) has enacted legislation outlining the duties and responsibilities of the Department with respect to ensuring the rights of police officers under investigation. A copy of this legislation is attached for your review.

In addition to the IACP publication mentioned earlier, there are several texts which you may wish to consult which contain material which should provide useful insight into the subject of police discipline. They include:

- a. Bopp, William J., Police Personnel Administration: The Management of Human Resources (Boston: Holbrook Press, 1974), pp. 300-317.

- b. Hale, Charles D., Fundamentals of Police Administration (Boston: Holbrook Press, 1977), pp. 259-263.
- c. Stahl, O. Glenn and Richard A. Staufenberger, eds., Police Personnel Administration (Washington, D.C.: Police Foundation, 1974), pp. 185-202.

I hope these remarks will be useful to you in your current deliberations. I look forward to receiving your draft product in a week or two. Once I have had the opportunity to go over it, I will be in touch with you to set up another meeting. In the meantime, I will give further thought to the project. Hopefully, we will come up with something that will be workable.

Sincerely,

Charles D. Hale
Senior Associate

TABLE 3

RANK ORDER OF STATED REASONS FOR PERCEIVED
UNFAIRNESS OF RULES OF CONDUCT, AS WRITTEN

RULES OF CONDUCT	REASONS							
	It is none of the department's business	Must be revised to be consistent with modern employment practices	It interferes with my ability to do good police work	It places undue restrictions on my personal rights	It is not stated so that I can understand it	It is too broad to be properly enforced	My department does not have this rule	Other
1. Off-duty employment	3	2	6	1	7	5	8	4
2. Operation of police vehicle.	8	3	1	6	5	2	7	4
3. Hairstyles, mustaches and beards	6	1	7	2	8	3	4	5
4. Courtesy to public.	6	5	1	3	8	2	7	4
5. Physical force	6	4	1	3	5	2	7	4
6. Use of firearms	7	5	1	4	6	2	8	3
7. Late for duty	6	1	5	4	7	2	8	3
8. Moral conduct	1	4	8	2	6	3	7	5
9. Insubordination	7	2	6	4	5	1	8	3
10. Personal debts.	1	3	8	2	7	4	5	6
11. Criticism of department	7	2	8	1	6	4	3	5
12. Use of alcohol off duty.	1	4	8	2	7	3	5	6
13. Gratuities.	3	4	6	2	7	1	8	5
14. Residency	2	3	7	1	8	6	4	5
15. Other	6	3	2	4	7	5	—	1
Total.	5	3	6	1	7	2	8	4

TABLE 4

RANK ORDER OF STATED REASONS FOR PERCEIVED
UNFAIRNESS OF RULES OF CONDUCT, AS ENFORCED

RULES OF CONDUCT	REASONS						
	This rule is not accepted by patrol officers	Supervisors are not consistent in enforcing this rule	Superior officers do not follow this rule	This rule was never explained to me by my supervisor	Punishment for violating this rule is too severe	My department does not have this rule	Other
1. Off-duty employment	2	1	3	6	5	7	4
2. Operation of police vehicles	5	1	2	—	3	6	4
3. Hairstyles, mustaches and beards	2	1	6	7	4	5	3
4. Courtesy to public.	4	1	5	6	3	7	2
5. Physical force.	4	1	5	6	2	7	3
6. Use of firearms	3	1	5	6	4	7	2
7. Late for duty	5	1	2	6	3	—	4
8. Moral conduct	5	1	2	6	4	7	3
9. Insubordination	5	1	2	6	4	7	3
10. Personal debts.	3	1	6	7	4	5	2
11. Criticism of department	3	1	4	7	5	6	2
12. Use of alcohol off duty.	3	1	2	7	6	5	4
13. Gratuities.	3	1	2	7	5	6	4
14. Residency	1	2	5	7	4	6	3
15. Other	6	1	5	—	2	4	3
Total.	3	1	4	7	5	6	2

physically or mentally exhaust the officers to the point that their performance may be affected; (3) require that any special consideration be given to scheduling of the officers' regular duty hours; or (4) bring the Department into disrepute or impair the operation or efficiency of the Department or officers.

Commentary

Departments have taken a variety of positions on this type of rule. The alternatives range from a total ban on outside employment, to permitting limited kinds of jobs, to allowing most types of employment, to no rule on outside employment. Although courts have upheld a complete ban on second jobs, there is usually unequal enforcement of the rule because some kinds of outside income are not covered. For example, the officer may own a farm, the officer's family may operate a store, or the officer may build cabinets to sell or trade. Officers who responded to the IACP questionnaire, strongly favored being allowed to have a second job. It is difficult to effectively argue that an officer should be prohibited from working at another job when other activities, such as hobbies or schooling, can be as disruptive to the officer's work performance as a second job. The best solution seems to be a compromise policy, permitting certain types of employment, under certain conditions, such that there will be no conflict of interest nor interference with the primary duty to the police department. This section seeks to implement such a policy. The particular types of employment which are prohibited should be carefully evaluated by the department.

3. PUBLIC STATEMENTS AND APPEARANCES (CRITICISM OF THE DEPARTMENT)

A. *Officers shall not publicly criticize or ridicule the Department, its policies, or other officers by speech, writing, or other expression, where such speech, writing, or other expression is defamatory, obscene, unlawful, undermines the effectiveness of the Department, interferes with the maintenance of discipline, or is made with reckless disregard for truth or falsity.*

B. *Officers shall not address public gatherings, appear on radio or television, prepare any articles for publication, act as correspondents to a newspaper or a periodical, release or divulge investigative information, or any other matters of the Department while holding themselves out as having an official capacity in such matters without official sanction or proper authority. Officers may lecture on "police" or other related subjects only with the prior approval of the Chief.*

Commentary

This section recognizes the officer's First Amendment rights to freedom of speech, as well as the need of the Department to operate without unlawful or destructive criticism. A blending of these factors is present in the rule, which has been upheld by a federal district court in the *Magri* case listed in Appendix I of the Final Report. The second segment of the rule limits officer's statement when officers are holding themselves out as representing the Department.

4. RESIDENCE

Officers shall reside within the jurisdiction served by the Department. New officers shall reside within the jurisdiction within one year of their appointment.

or

Officers shall reside within [thirty (30) minutes travel time] [fifteen (15) miles] of any duty station maintained by the Department. New officers shall reside within [thirty (30) minutes] [fifteen (15) miles] of any duty station within one year of their appointment.

Commentary

Some departments are required by law to establish a particular residency rule for officers. Where there is no such law, the department may elect one of the alternatives proposed by this section, depending largely on the particular local circumstances. Notice that the second form requires that the officer live within certain minutes or miles of any duty station. Another alternative is to require residency in close proximity to the officer's present duty station.

5. PAYMENT OF DEBTS

Officers shall not undertake any financial obligations which they know or should know they will be unable to meet, and shall pay all just debts when due. An isolated instance of financial irresponsibility will not be grounds for discipline except in unusually severe cases. However, repeated instances of financial difficulty may be cause for disciplinary action. Filing for a voluntary bankruptcy petition shall not, by itself, be cause for discipline. Financial difficulties stemming from unforeseen medical expenses or personal disaster shall not be cause

2. Female Officers

- (a) *Hair must be clean, neat and combed. Hair shall not be worn longer than the top of the shirt collar at the back of the neck when standing with the head in a normal posture. The bulk or length of the hair shall not interfere with the normal wearing of all standard head gear.*
- (b) *Wigs or hairpieces are permitted if they conform to the above standards for natural hair.*

Commentary

Departments may require their employees to be neat, presentable, and well-groomed. This extends to keeping the uniform clean and pressed, shoes shined, hair properly cut, and so on. The most frequent problem to arise in this area involves grooming standards. For example, as fashions change in the larger society, police department hairstyle standards often lag behind. Frequent conflicts arise because officers wish to adopt the grooming styles of the larger society of which they are a part; they view their police officer role as only one, limited, aspect of their personal identity, and do not wish to limit their appearance, considerations of safety and equipment usage, local community standards, and others. Many court decisions, as reflected in Appendix B of the full report have dealt with grooming standards. There is, as yet, no clear-cut answer to the question of what standards will be upheld upon a challenge. The rule as drafted has taken into consideration the departmental need for some uniformity of appearance and the relationships between hairstyle and the job of a police officer.

2. EMPLOYMENT OUTSIDE OF DEPARTMENT

A. *Officers may engage in off-duty employment subject to the following limitations: (1) such employment shall not interfere with the officers' employment with the Department; (2) officers shall submit a written request for off-duty employment to the Chief, whose approval must be granted prior to engaging in such employment; and (3) officers shall not engage in any employment or business involving the sale or distribution of alcoholic beverages, investigative work for insurance agencies, private guard services, collection agencies or attorneys or bail bond agencies.*

B. *Approval may be denied where it appears that the outside employment might: (1) render the officers unavailable during an emergency; (2)*

PERSONAL APPEARANCE

A. *Officers on duty shall wear uniforms or other clothing in accordance established departmental procedures.*

B. *Except when acting under proper and specific orders from a superior officer, officers on duty shall maintain a neat, well-groomed appearance and style their hair according to the following guidelines.*

1. Male Officers

- (a) *Hair must be clean, neat and combed. Hair shall not be worn longer than the top of the shirt collar at the back of the neck when standing with the head in a normal posture. The bulk or length of the hair shall not interfere with the normal wearing of all standard head gear.*
- (b) *Wigs or hair pieces are permitted if they conform to the above standards for natural hair.*
- (c) *Sideburns shall be neatly trimmed and rectangular in shape.*
- (d) *Officers shall be clean shaven except that they may have mustaches which do not extend below the upper lip line.*

for discipline, provided that a good faith effort to settle all accounts is being undertaken. Officers shall not co-sign a note for any superior officer.

Commentary

Some administrators question whether a police department should have a regulation regarding payment of debts by officers, while other administrators think that such a rule is essential.

The usual reasons given in favor of a rule prohibiting "bad debts" are as follows: 1) financial difficulties may lead to corruption and bribe-taking; 2) it is embarrassing to the department to have a "deadbeat" as a police officer; 3) financial irresponsibility may be indicative of other personality or character defects which may have a negative impact on job performance; and 4) the paperwork necessary to administer a garnishment or wage assignment of an employee's wages is costly and time-consuming for the agency.

In the private sector, the latter factor is a major reason behind personnel rules dealing with bad debts. Private employers do not get involved with the employee's creditor at all, unless a court judgment has been obtained. Police departments, on the other hand, often are asked by creditors to step in and pressure the officer to pay his or her bills, even without a garnishment having been obtained. Departments often comply with such requests out of a fear of "embarrassment."

There are many reasons why assisting a creditor is inappropriate, the most important of which is that the officer may have valid legal reasons for not paying the debt. The department is in no position to determine the validity of the creditor's claim against the officer, and should not get involved in a non-adjudicated claim of indebtedness. Were the department to take a "hands-off" policy toward officer financial matters, requests by creditors for pressure on the officer might substantially diminish.

If the administration of garnishments is a serious problem for the department, it may legitimately take disciplinary action against an employee with a history of garnishments. The conduct of the officer in such a case may be found to be clearly "job-related." If the department is concerned that, because of financial problems, the officer may be a target for corruption, it should deal with the corruption problem directly or assist the officer in straightening out his or her financial difficulties, or both.

USE OF ALCOHOL OFF DUTY

Officers, while off duty, shall refrain from consuming intoxicating beverages to the extent that it results in impairment, intoxication, or obnoxious

or offensive behavior which would discredit them or the Department, or render the officers unfit to report for their next regular tour of duty.

Commentary

This section prohibits off-duty drinking which results in discrediting officers or the department or which causes officers to be unfit for scheduled assignments. Officers, who were interviewed by IACP staff, frequently stated that off-duty drinking, as other off-duty behavior, was their own private business and should not be interfered with by the department. This rule is drafted to be a reasonable approach to the officers' contentions, as well as a protection to the department's legitimate interests.

7. IMMORAL CONDUCT

Officers shall maintain a level of moral conduct in their personal and business affairs which is in keeping with the highest standards of the law enforcement profession. Officers shall not participate in any incident involving moral turpitude which impairs their ability to perform as law enforcement officers or causes the Department to be brought into disrepute.

Commentary

This section is subject to many of the same challenges as "unbecoming conduct"—vagueness and a variety of interpretations. It is difficult to define with any exactness what is immoral conduct. An acceptable standard must be established against which to judge the morality of the conduct. The rule includes a number of standards which should be specific enough to give the rule real meaning. First, there is the "highest standard of the law enforcement profession." This phrase may have meaning through the officer's oath of office, the Law Enforcement Code of Ethics, or his or her status as an officer of the court or a public official. Second, the concept of "moral turpitude" is well established in the law and has a fairly precise meaning. Third, impairment of ability to perform as a law enforcement officer refers to individual loss of respect among the community or other officers to the point that the notorious nature of the individual's personal character overshadows the authority of his or her office so that he or she can no longer effectively exercise that authority. Fourth, causing the department to be brought into disrepute refers to the same situation as the third factor above, with the exception or addition that the individual's conduct reflects adversely on the department as a whole; where, for example, the indivi-

dual's conduct is generalized by the community to involve the entire department, and thus interferes with every officer's effectiveness.

It is important to note that when a department charges an officer with conduct which interferes with the effectiveness or the reputation of the officer or the department, it is necessary to prove, as one of the elements of the offense, that in fact damage has been done to the effectiveness or reputation of the department or the officer.

Appendix "B"

PUBLIC SAFETY OFFICERS

Procedural Bill of Rights

Chapter 9.7

3300. This chapter is known and may be cited as the Public Safety Officers Procedural Bill of Rights Act.

3301. For purposes of this chapter, the term public safety officer means all peace officers as defined under Penal Code Sections 830.2 and 830.2(a), (b), including peace officers who are employees of a charter city or county. The Legislature hereby finds and declares that the rights and protections provided to peace officers under this chapter constitute a matter of state-wide concern. The Legislature further finds and declares that effective law enforcement depends upon the maintenance of stable employer-employee relations, between public safety employees and their employers. In order to assure that such stable relations are continued throughout the state and to further assure that effective services are provided to all people of the state, it is necessary that this chapter be applicable to all public safety officers as defined in this section wherever situated within the State of California.

3302. Except as otherwise provided by law, or whenever on duty or in uniform, no public safety officer shall be prohibited from engaging, or be coerced or required to engage, in political activity.

3303. When any public safety officer is under investigation and subjected to interrogation by his commanding officer, or any other member of the employing public safety department, which could lead to punitive action, such interrogation shall be conducted under the following conditions. For the purpose of this Chapter, punitive action is defined as any action which may lead to dismissal, demotion, suspension, reduction in salary, written reprimand, or transfer for purposes of punishment.

- a. The interrogation shall be conducted at a reasonable hour, preferably at a time when the public safety officer is on duty, or during the normal waking hours for the public safety officer, unless the seriousness of the investigation requires otherwise. If such interrogation does occur during off-duty time of the public safety officer being interrogated, the public safety officer shall be compensated for such off-duty time in accordance with regular department procedures, and the public safety officer shall not be released from employment for any work missed.
- b. The public safety officer under investigation shall be informed prior to such interrogation of the rank, name, and command of the officer in charge of the interrogation, the interrogation officers, and all other persons to be present during the inter-

rogation. All questions directed to the public safety officer under interrogation shall be asked by and through no more than two interrogators at one time.

- c. The public safety officer under investigation shall be informed of the nature of the investigation prior to any interrogation.
- d. The interrogating session shall be for a reasonable period taking into consideration gravity and complexity of the issue being investigated. The person under interrogation shall be allowed to attend to his own personal physical necessities.
- e. The public safety officer under interrogation shall not be subjected to offensive language or threatened with punitive action, except that an officer refusing to respond to questions or submit to interrogations shall be informed that failure to answer questions directly related to the investigation or interrogation may result in punitive action. No promise of reward shall be made as an inducement to answering any question. The employer shall not cause the public safety officer under interrogation to be subjected to visits by the press or news media without his express consent nor shall his home address or photograph be given to the press or news media without his express consent.
- f. The complete interrogation of a public safety officer may be recorded. If a tape recording is made of the interrogation, the public safety officer shall have access to the tape if any further proceedings are contemplated or prior to any further interrogation at a subsequent time. The public safety officer shall be entitled to a transcribed copy of any notes made by a stenographer or to any reports or complaints made by investigators or other persons, except those which are deemed by the investigating agency to be confidential. No notes or reports which are deemed to be confidential may be entered in the officer's personnel file. The public safety officer being interrogated shall have the right to bring his own recording device and record any and all aspects of the interrogation.
- g. If prior to or during the interrogation of a public safety officer it is deemed that he may be charged with a criminal offense, he shall be immediately informed of his constitutional rights.
- h. Upon the filing of a formal written statement of charges or whenever an interrogation focuses on matters which are likely to result in punitive action against any public safety officer, that officer at his request shall have the right to be represented by a representative of his choice who may be present at all times during such interrogation. The representative shall not be a person subject to the same investigation.

This section shall not apply to any interrogation of a public safety officer in the normal course of duty, counseling, instruction, or informal verbal admonishment by, or other routine or unplanned contact with, a supervisor or any other public safety officer, nor shall this section apply to an investigation concerned solely and directly with alleged criminal activities.

- i. No public safety officer shall be loaned or temporarily reassigned to a location or duty assignment if a sworn member of his department would not normally be given that duty assignment under similar circumstances.

- 3304. a. No public safety officer shall be subjected to punitive action or denied promotion or be threatened with any such treatment, because of the lawful exercise of the rights granted under this chapter, or the exercise of any rights under any existing administrative grievance procedure.

Nothing in this section shall preclude a head of an agency from ordering a public safety officer to cooperate with other agencies involved in criminal investigations. If any officer fails to comply with such an order, the agency may officially charge him with insubordination.

- b. No punitive action, nor denial of promotion on grounds other than merit, shall be undertaken by any public agency without providing the public safety officer with an opportunity for administrative appeal.

- 3305. No public safety officer shall have any comment adverse to his interest entered in his personnel file, or any other file used for any personnel purposes by his employer without the public safety officer having first read and signed the instrument containing the adverse comment indicating he is aware of such comment except that such entry may be made if after reading such instrument the public safety officer refuses to sign it. Should a public safety officer refuse to sign, that fact shall be noted on that document, and signed or initialed by such officer.

- 3306. A public safety officer shall have 30 days within which to file a written response to any adverse comment entered in his personnel file. Such written response shall be attached to, and shall accompany, the adverse comment.

- 3307. No public safety officer shall be compelled to submit to a polygraph examination against his will. No disciplinary action or other recrimination shall be taken against a public safety officer refusing to submit to a polygraph examination, nor shall any comment be

entered anywhere in the investigator's notes or anywhere that the public safety officer refused to take a polygraph examination, nor shall any testimony or evidence be admissible at a subsequent hearing, trial, or proceeding, judicial or administrative, to the effect that the public safety officer refused to take a polygraph examination.

- 3308. No public safety officer shall be required or requested for purposes of job assignment or other personnel action to disclose any item of his property, income, assets, source of income, debts or personal or domestic expenditures (including those of any member of his family or household) unless such information is obtained or required under State law or proper legal procedure, tends to indicate a conflict of interest with respect to the performance of his official duties, or is necessary for the employing agency to ascertain the desirability of assigning the public safety officer to a specialized unit in which there is a strong possibility that bribes or other improper inducements may be offered.

- 3309. No public safety officer shall have his locker, or other space for storage that may be assigned to him searched except in his presence, or with his consent, or unless a valid search warrant has been obtained or where he has been notified that a search will be conducted. This section shall apply only to lockers or other space for storage that are owned or leased by the employing agency.

- 3310. Any public agency which has adopted, through action of its governing body or its official designee, any procedure which at a minimum provides to peace officers the same rights or protections as provided pursuant to this chapter shall not be subject to this chapter with regard to such a procedure.

- 3311. Nothing in this chapter shall in any way be construed to limit the use of any public safety agency or any public safety officer in the fulfilling of mutual aid agreements with other jurisdictions or agencies, nor shall this chapter be construed in any way to limit any jurisdictional or interagency cooperation under any circumstances where such activity is deemed necessary or desirable by the jurisdictions or the agencies involved.

- SEC. 2. There are no local costs in this act that require reimbursement under Section 2231 of the Revenue and Taxation Code because there are no duties, obligations or responsibilities imposed on local entities in the 1975-76 fiscal year by this act. However there are state-mandated local costs in this act in the 1976-77 fiscal year and subsequent years that require reimbursement under Section 2231 of the Revenue and Taxation Code which can be handled in the regular budget process.

- SEC. 3. This act shall become operative on January 1, 1977.

Source: PORAC NEWS, Volume 5, No. 21, August, 1976.

DIAL 947-2000 AREA CODE 312 · CABLE ADDRESS: PASHQ
PUBLIC ADMINISTRATION SERVICE
1313 EAST SIXTIETH STREET · CHICAGO, ILLINOIS · 60637

April 22, 1977

Lieutenant Alexander F. Gorr
Operations Commander
Addison Police Department
130 Army Trail Road
Addison, Illinois 60101

Dear Lieutenant Gorr:

Thank you for sending me a copy of your proposed Rules and Regulations. I have reviewed them carefully and have a few comments to make. On the whole, however, I feel the committee has done an excellent job and should be congratulated for its diligence. I am impressed with the simplicity and directness of the document and feel that, with a few minor changes, it should serve its intended purpose quite well.

Please keep in mind that the observations I make below have no basis in law, but are rather stated from an administrative point of view. In addition, my comments are offered only as suggestions. You may accept any, all, or none of them, as you think best. I would suggest, though, that you should have the document reviewed by the Village Attorney if you have not already done so in order to assess its legal suitability.

With this in mind, the following general observations are offered:

1. Once you have completed the manual, I would suggest that a Table of Contents be prepared. In addition, all pages should be numbered.
2. Reference is made throughout the manual to "his" and "he." In view of current EEO/AA principles, I would suggest that words such as "the member" and "theirs" be substituted in lieu of these terms.
3. Unless covered elsewhere in your policies and procedures, some mention should be made of radio discipline and obedience by members to traffic regulations (e.g., responding to emergency calls).

4. I have problems with a few specific sections of the manual, specifically:

3.2 Performance of Duty

Last sentence: ". . . notwithstanding the general assignment of duties and responsibilities." I'm not sure what this means. Can it be clarified?

3.6 Impartial Attitude

First sentence: ". . . charged with vigorous and unrelenting enforcement of the law . . ." If officers took this phrase seriously, they could arrest nearly everyone in sight. It's a small point, but perhaps it would be better to simply say, ". . . while charged with consistent and practical enforcement of the law . . ." or something to that effect.

4.3 Availability When on Duty

First sentence: I'm a little uncomfortable about the term "some police purpose." This leaves a lot to the imagination of the individual officer, and I can think of many situations in which this option could be abused. Perhaps it would be better to define more precisely what you mean by saying something like: "Members on duty shall not conceal themselves except when necessary to perform an assigned duty."

4.6 Identification as Police Officer

Last sentence: I'm not sure when it would not be reasonable for an officer to provide this information when asked to do so. I would suggest that you substitute "whenever asked to do so" for "whenever it is reasonable to do so" unless you have a compelling reason to do otherwise.

7.1 Seeking or Soliciting Gifts or Gratuities/Bribes

First sentence, fourth line: I would suggest you substitute the word "compromise" for "involve," since nearly anything can involve the officer in some way. The real concern here is any action which may compromise his or her integrity or professional conduct.

Other than these rather minor comments, I feel you have an excellent document here. I have never seen the "perfect" rules and regulations manual and doubt that one exists, but yours is certainly an improvement over many that I've seen. I would appreciate receiving a copy of the final version when it is completed.

I plan to keep this project open until I hear from you whether you wish me to do additional work on the project, so if there is anything else I can help you with in this regard, please let me know. I hope I have been of some assistance to you in your efforts.

Sincerely,


Charles D. Hale
Senior Associate

END