



# **A COLLECTIVE BARGAINING AGREEMENT**

**BETWEEN THE**

**CITY OF NEWARK**

**AND**



**LICKING COUNTY FOP  
LODGE #127  
GOLD**

**POLICE SERGEANT**

**EFFECTIVE: January 1, 2017**

**EXPIRES: December 31, 2019**

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**ARTICLE 1  
PURPOSE**

This Agreement, entered into by the City of Newark, Ohio, hereinafter referred to as the "Employer" and the Licking County Fraternal Order of Police, Inc. Lodge #127, hereinafter referred to as the "FOP", has the following purpose:

To achieve and maintain a satisfactory and stabilized employer-employee relationship and to promote improved work performance;

To provide for the peaceful and equitable adjustment of differences which may arise;

To attract and retain qualified employees by providing those benefits compatible with the financial resources of the Employer;

To assure the effectiveness of service by providing an opportunity for employees to meet with the Employer to exchange views and opinions on policies and procedures affecting the conditions of their employment, subject to the applicable provisions of the State of Ohio Revised Code, State and Federal laws, and the Constitution of the State of Ohio and the United States of America;

To ensure the right of every employee to fair and impartial treatment in the administration and application of the following Articles and provisions of the Agreement; and

To provide an opportunity for the FOP and the Employer to negotiate as to wages, benefits, and conditions of employment. This Agreement pertains to only those employees within the bargaining unit as defined hereunder.

**ARTICLE 2  
RECOGNITION**

**Section 2.1.** The Employer recognizes the Fraternal Order of Police, Inc. Lodge #127, -- through its agent, the Fraternal Order of Police, Ohio Labor Council, Inc. as the sole and exclusive bargaining agent for the purpose of collective bargaining in this bargaining agreement for those employees in the deemed certified bargaining unit existing within the Newark Division of Police for the purposes of this Agreement.

The employer recognizes the FOP as the exclusive bargaining agent for all full-time non-probationary police officers in the bargaining unit. The Bargaining Unit is Segment B representing all sworn police officers holding a supervisory position as defined herein with the exception for the Chief of Police and Deputy Chief.

**Section 2.2.** All positions and classifications not specifically established herein as being included in the Bargaining Unit shall be excluded from the Bargaining Unit.

**Section 2.3.** Notwithstanding the provisions of this Article, management, confidential, part-time, temporary, seasonal, and employees in the unclassified service shall be specifically excluded from the Bargaining Unit.

### ARTICLE 3 SEVERABILITY

This Agreement is subject to all applicable Federal and State laws, Civil Service rules and regulations, and will be interpreted wherever possible so as to comply fully with such laws, provisions, or any judicial decision interpreting them. In the event that any provision of this Agreement is contrary to the above, it shall be of no further force and effect, but the remainder of the Agreement shall remain in full force and effect.

### ARTICLE 4 NON-DISCRIMINATION

**Section 4.1. Non-Discrimination** The Union recognizes that the City must comply with the requirements of the American with Disabilities Act even where a conflict may exist between the ADA and this Agreement. In any event that such a circumstance arises, the City shall have authority to take action for the purposes of complying with its duty to provide reasonable accommodation and otherwise complying with the Act.

**Section 4.2. Prohibited Practices for Employees**

The following practices are prohibited:

- A. Restraining or coercing any Employee in the exercise of his or her lawful rights;
- B. Causing or attempting to cause any Employee to discriminate against another Employee because of membership or non-membership in any organization, or attempting to cause the Employer to violate any rights of an Employee;
- C. Discriminating against any Employee because he or she signed or filed a lawful affidavit, petition or complaint, or has given any truthful information or truthful testimony against the Employer, F.O.P. or F.O.P. members;
- D. Discriminating against any Employee because of race, sex, creed, color, age, national origin, affiliation, association or non-association, or failing to provide equal protection under the law to all Employees;
- E. Discriminating against any Employee who has filed a grievance pursuant to this Agreement; and
- F. Initiating, authorizing, or participating in any strike.

**Section 4.3. Prohibited Practices for Employer**

The Employer shall not engage in the following practices:

- A. Interfere with, restrain, or coerce Employees in the exercise of their lawful rights;
- B. Dominate, interfere, or assist in the formation, existence or administration of any Employee organization, or contribute financial support to any such organization;
- C. Encourage or discourage membership in any Employee organization by discrimination in hiring, tenure, training or other terms or conditions of employment;
- D. Discharge or discriminate against any Employee because he or she has filed any lawful affidavit, petition, grievance, or complaint; or, has given any truthful information or truthful testimony pursuant to a grievance; or, because the Employee has formed, joined or chosen to be represented by the F.O.P.;
- E. Discriminate against any Employee because of sex, creed, color, age, national origin, association or non-association or affiliation; or discriminate in the application or interpretation of the provisions of this Article as the same applies to all Employees;
- F. Engage in the lockout of Employees except during a strike by those Employees; and,
- G. Initiate any action, specifically intended to promote or incite any work stoppage on the part of any Employee.

**ARTICLE 5  
MANAGEMENT RIGHTS**

Nothing contained herein will be construed to restrict any Constitution, Statutory, or inherent exclusive appointing authority rights with respect to matters of general managerial policy.

**Section 5.1.** The F.O.P. will recognize the rights and authority of the employer to administer the business of the Division, and in addition to other functions and responsibilities which are not specifically modified by this Agreement; the F.O.P. will recognize the Employer has and will retain the full right and responsibility to direct the operations of the Division, to promulgate rules of Management, and more particularly, including but not limited to, the following:

- A. To manage and direct its Employees, including the rights to select, hire, promote, transfer, assign, evaluate, layoff, recall, reprimand, suspend, discharge, or discipline for just cause, and to maintain discipline among Employees.

- B. To manage and determine the location, type and number of physical facilities, equipment, programs and the work to be performed.
- C. To determine the Divisions' goals, objectives, programs and services, and to utilize personnel in a manner designed to effectively and efficiently meet these purposes.
- D. To determine the size and the composition of the work force and the Division's organizational structure, including the right to lay off Employees in accordance with the Ohio Revised Code Section 124.32.
- E. To determine the hours of work, work schedule and to establish the work force and rules for all Employees; in accordance with this Agreement.
- F. To determine when a job vacancy exists, when and if such vacancy should be filled, the duties to be included in all job classifications, and the standards of quality and performance to be maintained.
- G. To determine the necessity to schedule overtime and the amount required thereof.
- H. To determine the Division budget and uses thereof.
- I. To maintain the security of records and other pertinent information.
- J. To determine and implement necessary actions in emergency situations.

**Section 5.2.** The F.O.P. recognizes and accepts that all rights and responsibilities of the Employer not specifically modified by the Agreement or ensuing Agreements will remain the exclusive function of the Employer.

## **ARTICLE 6 DUES DEDUCTIONS**

**Section 6.1.** As a condition of continued employment with the City of Newark, Department of Public Safety, Division of Police, all employees of the bargaining unit who are not members of the employee organization (Union) shall pay to the Union, as hereinafter provided, a fair share fee. This provision shall not be interpreted to require any employee to become a member of the Union; nor shall fair share fees exceed dues paid by members of the employee organization who are in the same bargaining unit.

Union agrees to prescribe an internal procedure to determine a rebate, if any, for non-members which conforms to Federal Law, for those occasions where a non-member makes a timely demand upon the Union. Absent arbitrary and capricious action, such determination is conclusive on the parties except that a challenge to such determination may be filed with the State Employment Relations Board within thirty (30) days of the determination date specifying the arbitrary or capricious nature of the determination and the State Employment Relations Board shall review the rebate determination and decide whether it was arbitrary or capricious.

The deduction of a fair share fee by the Employer from the payroll check of the employee and its payment to Union is automatic and does not require the written authorization of the employee.

The internal rebate procedure shall provide for a rebate of expenditures in support of partisan politics or ideological causes not germane to the work of employee organization in the realm of collective bargaining.

Any public employee who is member of and adheres to established and traditional tenets or teachings of a bona fide religion or religious body which has historically held conscientious objections to joining or financially supporting an employee organization and which is exempt from taxation under the provisions of the Internal Revenue Code shall not be required to join or financially support any employee organization as a condition of employment. Upon submission of proper proof of religious conviction to the State Employment Relations Board, the Board shall declare the employee from becoming a member of or financially supporting an employee organization. The employee shall be required, in lieu of the fair share fee, to pay an amount of money equal to such fair share fee to a non-religious charitable fund exempt from taxation under Section 501(C)(3) of the Internal Revenue Code mutually agreed upon by the employee and the Union's Financial Secretary. The employee shall furnish to the employee organization written receipts evidencing such payment, and failure to make such payment or furnish such receipts shall subject the employee to the same sanctions as would non-payment of dues under this Agreement.

It is agreed that the Union shall indemnify and hold harmless the City from any and all claims, demands, and expenses incurred in the defense against such claims and demands, made by an employee in the bargaining unit against the City as a result of the Union's establishment or an amount which it considers to be a fair share fee and/or Union dues and the Union's management of the rebate procedure.

Within the above limits, the Employer shall provide a check-off on the wages of any employee eligible for inclusion in the bargaining unit for the payment of regular monthly Union dues and/or fair share fees upon receipt of a certified list of employees from the Financial Secretary of the Union designating those employees in the bargaining unit who are subject to the Union dues and/or fair share fee. With reference to bargaining unit members who are also Union Members, the certification shall be accompanied by a voluntarily signed authorization of an employee on a form provided by the Union authorizing the Newark City Auditor to provide a check-off on the wages of any Union member for the payment of regular monthly Union dues.

Such written authorization by the employee for dues check-off shall be valid for the duration of this Agreement unless such authorization is withdrawn by written notice served upon the City Auditor by the employee. Any costs in making such voluntary check-off, except as discussed above, shall be borne by the Employer.

The total amount of deductions for Union dues and fair share fees shall be remitted bi-weekly by the Employer to the Financial Secretary of the Union. Once the funds are remitted to the Union, their disposition thereafter shall be the sole and exclusive obligation and responsibility of the Union.



**Section 6.2.** The Employer shall be relieved from making such "check-off" deductions, whether for Union dues or fair share fees, upon (a) termination of employment, or (b) transfer to a job other than one covered by the bargaining unit, or (c) layoff from work, or (d) an agreed leave of absence, or (e) revocation of the check-off authorization in accordance with its terms or with applicable law, or (f) illegal job action.

**Section 6.3.** The Employer shall not be obligated to make dues deductions of any kind from any employee who during any dues period involved, shall have failed to receive sufficient wages to equal the dues deductions. This rule is also applicable to fair share fee situations.

**Section 6.4.** Notwithstanding the other Sections of this Article, it is agreed that neither the employees nor the Union shall have a claim against the Employer for errors in the processing of deductions unless a claim of error is made to the Employer in writing within thirty (30) days after the date such an error is claimed to have occurred. If it is found that an error was made, it will be corrected at the next pay period that Union dues will normally be made. Payroll collection of dues and fees shall be authorized for the exclusive bargaining agent only, and no other organization attempting to represent the employees within the bargaining unit as herein determined.

**Section 6.5.** All dues and fees deductions, at the Employer's option upon written notice by certified mail to the Union representative, may be cancelled upon the termination date of this Agreement. All dues and fees deductions for any month in which Union members individually or collectively engage in a strike, may be cancelled at the Employer's option without notice to the Union.

## **ARTICLE 7 NO STRIKE/NO LOCKOUT**

Inasmuch as this Agreement provides machinery for the orderly resolution of grievances, the Employer and the F.O.P. recognize their mutual responsibility to provide uninterrupted services to the citizens of Newark, Ohio. Therefore:

- A. The F.O.P. agrees that neither it, its officers, agents, representatives, or members, during the duration of this Agreement or extensions thereof, will authorize, instigate, cause, aid, condone or participate in any strike, work stoppage, or any other interruption of operations or services of the Employer by its members or other employees of the City. When the Employer notifies the F.O.P. by certified mail that any of its members are engaged in any such strike activity, as outlined above, the F.O.P. shall immediately, deliver notice to all members of the Bargaining Unit over the signature of an authorized representative of the F.O.P. to the effect that a violation is in progress and such notice shall instruct all employees to immediately return to work. Should the employees fail to return to work or the F.O.P. fail to post such notice, the Employer shall have the option of canceling any Article, Section, or Subsection of this Agreement. Any employee failing to return to work after notification by the F.O.P. as provided herein, or who participates or promotes such strike activities as previously outlined, may be discharged and only the question of whether or not he/she did in fact participate in or promote such action shall be subject to appeal.

- B. The Employer agrees that neither it, its officers, agent, or representatives, individually or collectively, will authorize, instigate, cause, aid or condone any lockout of members of the F.O.P. unless those members shall have violated Section A of this Article. Should the employer engage in unprovoked lockout of employees, the F.O.P. shall have the option of canceling any Article, Section or Subsection of this Agreement.

## **ARTICLE 8 BULLETIN BOARDS**

### **Section 8.1. Bulletin Boards**

The Employer shall furnish and maintain one (1) bulletin board to be used by the F.O.P. for the posting of notices pertaining to recreational and social activities, elections, reports, meeting notices, legislative enactment's and judicial decisions affecting public employee labor relations. The bulletin board shall not be used for posting of political material or materials which constitute a personal attack upon the Administration, fellow employees or which interferes with the operation of the department or undermines the morale of the department. Any material posted on the bulletin board which in the opinion of the Chief does not comply with the foregoing shall be promptly removed by the F.O.P. Any disagreement with the opinion of the Chief in removing material may immediately be referred to Step 4 of the grievance procedure as hereinafter set forth. Where bulletin board violations are committed the Employer may require advance approval of all future material being posted by the Employee who has committed the violation.

## **ARTICLE 9 NEGOTIATIONS**

### **Section 9.1. Negotiating Team**

Upon written notice from the F.O.P. in accordance with the terms of this Agreement contained in the Article titled "Duration of Agreement", the employer will meet with the authorized representatives of the F.O.P. to establish the bargaining guidelines for negotiations.

The City of Newark shall recognize the elected committee of the F.O.P. consisting of the three (3) Employees classified as members of Segment B as the exclusive Bargaining Agent for the Bargaining Unit..

### **Section 9.2. Time Off for Negotiations**

After first obtaining the written approval of the Chief of Police or his designee, time off will be allowed by the Chief for its members selected as representatives on a wage negotiation committee to attend negotiation meetings. Selected bargaining members listed in Section 9.1 shall be released the night before a scheduled negotiation session. This release time will be hour for hour for time spent in actual negotiations.

**Section 9.3.** The selected representatives will be released from their normal duty hours for attendance of the negotiation meetings without any loss or reduction of wages and/or benefits due them. Those selected representative(s) who are attending negotiation meetings that are assigned to street duty at the same time as the negotiation meetings will be carried on the day sheet as working.

**Section 9.4.** Section 9.2 of this Article is to cover time off for required rest of the selected representative(s), so as not to risk an accident and/or injury to same, in order to attend negotiation meetings.

## **ARTICLE 10 WORK RULES AND ORDERS**

The Employer agrees to provide the F.O.P. Coordinator access to of all current non-confidential orders, rules and regulations which directly affect members of the Bargaining Unit where such orders, rules and regulations have been reduced to writing. The employer shall also maintain an electronic version of all current non-confidential orders, rules and regulations.

The Employer further agrees to provide the Coordinator and affected employees an electronic version of all future non-confidential orders, rules and regulations which directly affect members of the Bargaining Unit. The Employer shall also post one (1) copy available electronically to all members.

A copy of the training schedule affecting the members of the Bargaining Unit shall also be posted on the intranet site.

## **ARTICLE 11 WAIVER IN CASE OF EMERGENCY**

**Section 11.1.** In cases of emergency declared by the President of the United States, the Governor of the State of Ohio, the Mayor of Newark, the Federal or State Legislature, or the Newark City Council, such as acts of God and civil disorder, the following conditions of this Agreement shall automatically be suspended:

- A. Time limits for replies on grievances.
- B. All work rules and/or agreements and practices relating to the assignment of all City employees.

**Section 11.2.** Upon the termination of the emergency should grievances exist, they shall be processed in accordance with the provisions outlined in the grievance procedure of this Agreement and shall proceed from the point in the grievance procedure to which they (the grievance(s)) had properly progressed.

**ARTICLE 12  
PROBATIONARY PERIOD**

**Section 12.1.** All newly promoted Members shall serve a six (6) month probationary period from the date of promotion. For any probationary employee who is off of regular assigned duties for any reason for 40 consecutive hours or more, their probationary period is automatically extended by the number of hours of their absence.

**ARTICLE 13  
EMPLOYEE RELATIONS COMMITTEE**

**Section 13.1.** In the interest of sound Employee/Management relations, there is hereby established an Employee Relations Committee for the Division of Police. The Committee shall meet upon request from either party on a mutually agreeable day and time, but neither party shall be required to meet more often than once each month. The Employer shall recognize and meet with not more than three (3) representatives selected by the F.O.P. from the Bargaining Unit to discuss pending problems and to promote a more harmonious Employee/Management relationship. Either the City or the Lodge may request a representative from the Human Resources Department to participate in the meeting.

**Section 13.2.** The F.O.P. and Management shall furnish each other at least three (3) working days in advance of the scheduled meeting, an agenda of the matters they wish to discuss in the meeting and a list of names of those representatives who will be attending.

The purpose of such meetings shall be to:

- A. Allow mutual discussion and development of new concepts in professional police service;
- B. Formulate police professionalization goals and procedures;
- C. Develop new programs in police professionalization;
- D. Discuss the administration of this Agreement;
- E. Notify the F.O.P. of changes made by the Employer which affect Bargaining Unit members of the F.O.P.;
- F. Discuss grievances which have not been processed beyond the final step of the grievance procedure when such discussions are mutually agreed to by the parties;
- G. Disseminate general information of interest to the parties;
- H. Give the F.O.P. representative the opportunity to share the view of their members and/or make suggestions on subject of interest to their members;

- I. Discuss ways to increase productivity and improving efficiency; and/or
- J. To consider and discuss health and safety matters relating to employees.

#### **ARTICLE 14 COORDINATOR**

The F.O.P. as the recognized Bargaining Agent for all Bargaining Unit members may appoint one member from the Bargaining Team to be designated as the Officer Coordinator. The F.O.P. will furnish in writing, to the Chief, the name, address, and phone number of such appointee and his alternate. The Coordinator and his/her alternate will have the following duties:

- A. Attending Employee Relations Committee meetings;
- B. Posting lodge notices on the bulletin boards;
- C. Representing the Lodge in investigation and processing grievances, beyond Step 3 of the grievance procedure;
- D. Replacing a grievance representative who is absent or unavailable;
- E. Notifying the Employer of the Lodge intent to invoke any steps of the grievance procedure beyond Step 3; except that notices of intent to arbitrate from the officer coordinators are subject to written confirmation by the Fraternal Order of Police, Ohio Labor Council, Inc.
- F. Generally supervising review of Police grievances;
- G. Acting as liaison between the Employer and the Lodge;
- H. Will request time off as defined in Article 34.

The Coordinator or his alternate will be released from his normal duty hours upon notification to his immediate supervisor to participate in meetings and discussions and investigation with regards to the aforementioned problem areas without loss of pay or benefits to the employee. The Coordinator or his/her alternate will also be permitted to change his/her scheduled hours of work with permission from the Chief of Police.

#### **ARTICLE 15 INTERNAL INVESTIGATIONS**

**Section 15.1.** The Chief or his/her designee may conduct an investigation of alleged misconduct by an employee. The conduct and content of the investigation shall remain confidential and information shall only be provided to those persons based on a “need to know” basis.

There are designated three (3) distinct types of “Standard of Conduct” investigations involving members affected by this Agreement:

Criminal – This is an investigation into the conduct of a member which may involve a violation of a criminal statute for which the member may be criminally charged.

Internal – This is an administrative investigation done at the order of the Chief of Police, conducted by a member of the Police Division, into alleged misconduct of a serious nature by a member. Serious nature is defined as criminal conduct, or conduct which involved a substantial breach of trust, duty, or conduct and which may result in termination, suspension, reduction.

Chain of Command – This administrative investigation is conducted by the immediate supervisor of the member and involves minor breaches of policy or conduct. An example of a “Chain of Command” allegation would be that a member failed to take a report when it was necessary or desired, or a report that he was operating a vehicle in a reckless manner or was rude to a citizen.

Investigations which may lead to the filing of criminal charges shall be conducted separately from those of an administrative nature. Any criminal investigation shall be conducted prior to an administrative investigation concerning a similar event or action. Further, the same investigator(s) shall not be used to conduct a criminal and administrative investigation of the same event or actions.

All Standard of Conduct investigations will be done within 45 days after the date of the incident or discovery of the incident. If the investigation is not completed within 45 days, the Chief shall forward to the employee a status report to include estimated time of completion.

The Chief of Police or designee, for cause with an explanation to the officer may relieve an officer’s firearm and badge subject to review within 21 days.

## **Section 15.2. Employee Rights**

Prior to any questioning, members under criminal investigation or for an event which could possibly lead to a criminal investigation or charge shall be advised of the constitutional right against self-incrimination and the right to an attorney (Miranda Warning).

Members subject only to administrative action shall be advised of their “Garrity” warning requiring them to truthfully answer all questions, and that the answers to those questions and results of the investigation may not be used against him/her in a criminal complaint or action, but may be used by the City in taking action, and in defending such action with respect to discharge, or discipline of the Employee.

When any member is requested to meet to answer questions or make any statement, whether oral or written, regarding an event or action which may lead to disciplinary action will be notified in writing at least seventy-two (72) hours in advance of the meeting and will be permitted appropriate F.O.P. representation if the employee so desires. Appropriate representation will mean the Grievance Representative,

Coordinator, or his alternate. The F.O.P. however may elect to substitute an attorney or staff representative. The employee will be permitted up to two (2) Union representatives. No disciplinary action of record, reprimand, suspension, reduction, or dismissal may be taken until these procedures have been followed.

If the affected employee chooses not to have representation, it shall be documented in writing on a form prescribed. Further, the F.O.P. reserves the right to have a representative present to preserve any rights which may be mandated and required of it at a later time.

In cases wherein a work related violation of law is alleged, the FOP/OLC reserves the right to provide an attorney representative.

The written notification identified supra shall specifically identify those allegations against the member, the name of the person(s) making the allegations, (unless the investigation is required by Federal law or State law and the need to withhold the complainants name in order to protect from possible retaliation is required) and the date of the event. Employees shall be advised prior to questioning or being asked for a statement if they are the focus of the investigation or a non-focus witness.

This Article will not preclude a supervisor from counseling or reprimanding an employee in accordance with Section 15.9 and 15.10.

### **Section 15.3. Investigative Questioning**

Employees will only be asked questions which relate the incident directly under investigation. If additional conduct which may lead to administrative charges surfaces during the questioning, the employee will be immediately notified and the employee shall be given a brief time to confer with the representatives(s).

If during the questioning, information which may lead to a possible criminal charge, the employee shall be immediately notified and shall be advised of his Miranda rights. He shall be given a brief time to confer with his representative(s).

All questioning done pursuant to this article which is for either criminal or internal purposes shall be tape-recorded.

Interviews conducted pursuant to a chain of command investigation may be tape recorded at the request of either party.

Copies of tapes and transcripts shall be provided to the employee and F.O.P. pursuant to Section 15.4 "Discovery during an Investigation of Misconduct".

### **Section 15.4. Discovery during Investigation of Misconduct**

As the purpose of any administrative investigation is to discover the facts surrounding the incident, at least seventy-two (72) hours prior to an interview or request for a written statement pursuant to this Article, and at any time during the pendency of an investigation and upon completion of the investigation of misconduct and no less than three (3) calendar days prior to

any hearing associated with that investigation, both parties will exchange discovery at this time. Documents which are privileged or otherwise prohibited from disclosure by State or Federal law or by City ordinance are protected from discovery under this Article.

Discovery shall include:

- A. Relevant written or recorded statements;
- B. Books, pages, documents, photographs, tangible objects, building or places, or copies or portions thereof, available to or within the possession, custody or control of either party and which are intended for use by either party as evidence at the hearing.
- C. Any results or reports of physical or mental examinations and of scientific tests or experiments made in connection with the particular case, or copies thereof.
- D. Written lists of the names and addresses of all witnesses whom either party intends to call at the hearing;
- E. All evidence known or which may become known to either party favorable to either party and material either to the truth of the allegations or punishment.

**Section 15.5. Polygraph Examination**

Employees may be given a polygraph examination only if they are the focus of an investigation, a known witness to an incident, or at the employee's request. No polygraph examination shall be given unless the incident under investigation is a serious violation.

In any investigation involving a complaint, an employee shall not be ordered to submit a polygraph examination unless the complainant is requested to take a polygraph and if the complainant does, the results support the complaint against the employee.

No polygraph shall be given without the advance written order of the Chief of Police.

The results of any polygraph may not be used in any subsequent criminal action unless properly stipulated prior to the examination according to Ohio and Federal law.

Further, either party may offer evidence at any hearing or stage, including, but not limited to testimony, and professional articles, which may tend to prove or refute the reliability of polygraph examinations or the qualifications, reputation, etc. of the particular polygraph operator or employing firm.

The results of a polygraph examination cannot be used unless additional evidence, which would include written statements and the initial complaint, can be produced to substantiate the complaint.

The pre-test and post-test interviews shall be conducted pursuant to all sections of this Article.



**Section 15.6. Representatives Conduct**

As “ a single employee confronted by the (City) investigating whether certain conduct deserves discipline may be too fearful or inarticulate to relate accurately the incident being investigated, or too ignorant to raise extenuating factors,”<sup>1</sup> any employee representative or attorney called to aid an employee during the investigative interview stage of an investigation may be permitted, at the Chief’s discretion, to properly aid the employee by asking questions of the employee which may bring about additional facts or qualifications concerning the issue at hand or provide insight or guidance to the employee and may object to questions which he/she believes are improper.<sup>2</sup> The representative may not, however, use this authority as a means to disrupt the interview.

**Section 15.7. Pre-Disciplinary Hearing**

A charge for a serious violation or misconduct will be in writing, stating the alleged violation against the Employee. Such Employee will be given a true copy of the charge or charges to include discovery. In addition, such Employee will also be given a written notice advising the Employee that he or she will appear at a certain time and place before the appointing authority. This notice shall be in at least three (3) calendar days in advance of such hearing. At such hearing, the Employee will be permitted up to two (2) appropriate Union representatives which shall consist of no more than one (1) employee representative of the Union. The employee shall be allowed to call witnesses material to the member’s defense or question adverse witnesses. In any case of reduction, suspension, or removal, the appointing authority will furnish such Employee with a copy of the order of reduction, suspension or removal, which order will state the reasons therefore.

When a meeting for the purpose of determining whether or not the Employee has committed a serious violation which could result in suspension, reduction or dismissal, the employee will be notified in writing in advance and will be permitted appropriate F.O.P. representation if the employee so desires. Appropriate representation will mean the Grievance Representative, Coordinator, or his alternate. The F.O.P. however may elect to substitute an attorney or staff representative. The employee will be permitted up to two (2) Union representatives. No disciplinary action of record suspension, reduction, or dismissal may be taken until these procedures have been followed except in the case of a serious violation whereby the employee is incapable of performing his/her duties and is a detriment to the Police Division. The Employer may suspend an employee from duty pending such meeting, subject to Section 15.9. This Article will not preclude a supervisor from counseling or reprimanding an employee in accordance with Section 15.9 and 15.10.

In cases wherein a work related violation of law is alleged, the FOP/OLC reserves the right to provide an attorney representative.

A copy of the notices of suspensions, demotions, or dismissals will be provided to the Employee within seven (7) calendar days of the decision.

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<sup>1</sup> National Labor Relations Board v. J. Weingarten, 420 U.S. 251 (1975)

<sup>2</sup> In Re SERB v. City of Cleveland 15 OPER 1037 (96-ULP-09-1522; SERB 97-017)

**Section 15.8. Relieved from Duty**

Any employee may be relieved from duty with pay pending the meeting as described in Section 15.7.

**Section 15.9. Counseling**

Counseling is the first form of corrective action to be taken by an immediate supervisor to correct minor violations and sub-par job performance. Counseling sessions are for those incidents that are generally initiated by an immediate supervisor. Counseling can be initiated because of the observations of the immediate supervisor, other department supervisors, or result of minor violation or complaint. Serious violations, citizens' complaints, Auto Accidents and violations of department rules will be referred through the Office of the Chief of Police to determine if counseling will be the appropriate form of corrective action.

Records of counseling shall be maintained by the issuing supervisor and shall not be placed in the employee's personnel file, unless it results in further disciplinary action within six (6) months of the counseling. These counseling sessions shall be deemed a non-personnel record after six (6) months provided no subsequent corrective actions of a similar nature occur during the six (6) month period. Such records of counseling may provide a basis for subsequent disciplinary action but shall not, in and of themselves, constitute disciplinary action. Nothing shall require the City to counsel an employee before initiating disciplinary action (i.e. oral and written reprimand, suspension, etc.)

Counseling sessions, like any form of discipline, shall not be used as a means of harassment. Normally, counseling sessions or letters are not subject to the grievance procedure except when utilized in a manner which the employee believes is harassing.

**Section 15.10. Minor Violations**

An Employee who has allegedly committed a violation of a minor nature relating to his or her performance shall be interviewed by his or her immediate supervisor prior to the Employer issuing an oral or written reprimand. In instances of non-contemporaneous interviews, the employee shall have the right to representation. An on the spot interview during or practically contemporaneous with the event in question does not require the presence of a third party. An employee shall be provided a copy of any reprimand issued within seven (7) days.

An employee, who received an oral or written reprimand, may make a written response to that reprimand which shall be maintained with the reprimand in the employee's personnel file. The reprimand and the response shall be removed from the employee's personnel file in accordance with Article 19.

**Section 15.11. Use of Electronic Recording Devices or Investigative Tools**

The use of surreptitious audio recording devices by the employer or an employee is prohibited unless all parties to the conversation are aware of the recording or the recording has been authorized in writing by the Chief of Police. This shall not affect the use of such devices

for assigned criminal investigations. The use of such devices for a criminal investigation shall be in conformity with and governed by applicable Federal and State law.

The use of other electronic means of video recording or tracking the movements or activities of employees is prohibited except with the written approval of the Chief of Police. The use shall be approved by the Chief of Police, and shall be set for a specific instance or period of time. Advances in technological means which supersede or are superior to current investigative means, shall be discussed and agreed upon prior to use.

**Section 15.12. Standard Operating Procedure**

This Article shall constitute the Standard Operating Procedure for the handling of all complaints and investigations of members covered under this Agreement.

**ARTICLE 16  
GRIEVANCE REPRESENTATIVES**

The F.O.P. shall select a maximum of three (3) Grievance Representatives from Segment B, to process grievances. No more than one (1) Grievance Representative shall function as such to process any single grievance. A list of these authorized representatives shall be provided to the Employer by the F.O.P. and the F.O.P. shall keep this list current at all times. An on-duty representative shall be accorded equal time off in order to be present in grievance hearings, and will be permitted reasonable time during duty hours without loss of pay or benefits to investigate or process grievances. In no event, however, will a grievant or his representative receive compensable time off to engage in activities covered by this Agreement. The Grievance Representative herein shall be the only authorized F.O.P. representative through the first three (3) steps of the grievance procedure. Any bargaining unit member who does not want representation from the F.O.P. must notify the City and sign a waiver of representation form for the F.O.P. Upon signing this form, no further representation will be provided by the F.O.P. but the F.O.P. reserves the right to be present during any activities relating to the waived representation. The Grievance Representative herein shall only be authorized to represent those members from their respective segment of the Bargaining Unit as provided in Article 2 of this Agreement.

Grievance meetings will be held between 8:00 a.m. and 4:30 p.m., Monday through Friday unless mutually agreed to.

An aggrieved Employee may request a representative and the representative requested shall inform his immediate supervisor of the grievant's name and team number.

In no event shall the activities permitted herein interfere with the work assignment of the representatives involved.

**ARTICLE 17**  
**GRIEVANCE/ARBITRATION PROCEDURE**

**Section 17.1.** The grievance procedure is a formal mechanism intended to assure that Employee grievances arising from those misunderstandings that will inevitably develop in the day-to-day activities of public service are promptly heard, answered and appropriate action taken to correct a particular situation. Punitive action shall not be taken against any Employee for submitting a grievance in good faith.

**Section 17.2.** The term "grievance" shall mean any unresolved question or dispute regarding the wages, hours, and terms and conditions of employment of Bargaining Unit members, including but not limited to unresolved questions or disputes concerning the interpretation and application of this Agreement. It is not intended that the grievance procedure be used to effect changes in the Articles of this Agreement nor those matters which are controlled by the provisions of federal and state laws, city ordinance, Civil Service Commission Rules, or by the United States and Ohio Constitutions.

**Section 17.3.** Where the alleged grievance is of a nature that qualifies for appeal under the Rules of the Civil Service Commission, the aggrieved Employee must appeal through the Commission in accordance with the rules of that body. Disciplinary grievances, alleging a violation of the "just cause" principle and/or a violation of progressive discipline, shall be filed at the lowest level at which the management designee has the authority to override the disciplinary action. If no management representative under the Chief has such authority, such grievances shall be filed directly at the Chief's level.

**Section 17.4.** A grievance may be brought by one or more aggrieved Employees with or without an F.O.P. representative or as a class action grievance. An aggrieved Employee who selects an F.O.P. representative shall consult with his shift representative appointed pursuant to the Agreement. A class action grievance may be processed by any one of the aggrieved Employees, but shall be signed by each Employee wishing to process the grievance and shall initially be submitted to Step 1 of the grievance procedure.

**Section 17.5.** Steps of the grievance procedure may be waived by mutual consent of both parties in writing when it is believed that lower steps of the grievance procedure are not pertinent to the issue. Unless steps of the grievance procedure have been mutually waived, each grievance must be processed at the proper step in the progression in order to be considered at the subsequent step, except as provided in Section 6 of this Article.

In the event any step of the grievance procedure does not have the designated supervision in the line of supervisory authority, the grievance may be submitted to the higher appropriate step.

**Section 17.6.** A grievant and appropriate witness shall be entitled to be present at any step of the grievance or arbitration procedure and shall not lose pay as a result of necessary attendance at a meeting during scheduled working hours. If more than one (1) grievant is involved in any meeting, one of their members shall be elected as spokesman.

**Section 17.7.** An Employee may withdraw a grievance at any point by submitting in writing to the Chief of Police a statement to that effect, or by permitting the time requirements at any step to lapse without further appeal.

**Section 17.8.** The requirements in Steps 2 and 3 for written grievances and responses shall not preclude the aggrieved employee and the appropriate management representative from orally discussing and resolving the grievance.

**Section 17.9.** Once the grievance is reduced to writing by the aggrieved employee, no new matter may be inserted therein except where the insertion of new matter is concurred in by both the employee and the supervisor who last made a written response to the grievance.

**Section 17.10. Grievance Time Lines**

An aggrieved Employee shall bring the grievance to the Deputy Chief of Police at Step 1 of the Grievance Procedure within twenty-one (21) calendar days of its occurrence, or if at the time the Employee claims he was unaware of the grievance and Management cannot substantiate otherwise, within twenty-one (21) calendar days of his/her knowledge of the incident giving rise to the grievance.

Any grievance which has received an answer from management and is not advanced by an employee to any step of the grievance procedure within the time limits prescribed shall not be considered timely filed, and shall be void.

A grievance not responded to by the Chief of Police, or the Safety Director or their designated representatives within the time limits prescribed in their respective steps of the grievance procedure, may be automatically advanced to the next step of the grievance procedure.

**Section 17.11.** The time limitations prescribed herein may be waived by mutual agreement, in writing, by the aggrieved Employee, or his representative, and the appropriate Management representative at each step.

**Section 17.12.** For the purpose of measuring time for the completion of all procedures or requirements specified in the grievance procedure, reference to specified number of "days" shall be construed as calendar days.

**Section 17.13. Grievance Procedure**

There shall be an earnest, honest effort to settle disputes and controversies promptly. The procedures of this section shall serve as a means of settlement of all grievances. Oral and written reprimands are not in and of themselves arbitral. An employee may dispute the reprimand(s) by submitting a written response to the reprimand which shall be placed in the employee's personnel file. The City may also submit a written response to the employee's statement and have it placed in the personnel file. If oral and/or written reprimands are used as part of the progressive disciplinary process to impose a suspension, the reprimand and responses of the employee and City will be submitted to the Arbitrator for a decision as to the validity of such reprimands.

**STEP 1.** Deputy Chief

The aggrieved Employee shall submit a written grievance to his Deputy Chief within twenty-one (21) calendar days. The written grievance at this step and at all steps hereafter shall contain the following information:

- A. A statement of the grievance and the facts upon which it is based;
- B. The alleged violation;
- C. The remedy or adjustments sought; and
- D. The signature of the aggrieved Employee.

The Deputy Chief shall investigate and respond in writing to this grievance within twenty-one (21) calendar days of its receipt. The written response at this step and Management's response in all steps hereafter shall contain the following information:

- A. An affirmation or denial of the facts upon which the grievance was based;
- B. The remedy or adjustment, if any, to be made; and
- C. The signature of the appropriate Management representative.

A grievance not answered in Step 1 within twenty-one (21) calendar days of receipt shall be advanced to the next step; exclusive of holidays, of the date on which the respective time limit expired.

STEP 2.      Chief

If the grievance is not resolved at Step 1, the aggrieved Employee shall submit his/her written grievance to the Chief within twenty-one (21) calendar days following the receipt of the Deputy Chief's written response. The Chief will investigate and reply to the Grievant in writing by the end of the twenty-first calendar day unless the Chief considers it necessary to hold a grievance meeting with the employee and the appropriate representative. In that event, such meeting shall be held within twenty-one calendar days following the Chief's receipt of the grievance, unless otherwise mutually agreed by the parties. The Chief, in the event a grievance meeting is held, shall have fourteen (14) calendar days following the meeting to reply to the Grievant and the Coordinator or his alternate in writing.

If the grievance is not appealed to the next Step by the Coordinator or his alternate within twenty-one (21) calendar days after receipt of the Chief's answer, it shall be considered satisfactorily resolved.

STEP 3.      Safety Director

If the grievance is not resolved at Step 2, the Safety Director of the City of Newark shall hold a grievance meeting, within twenty-one calendar days of his/her receipt of the appeal, unless otherwise agreed by the parties. He/she shall reply to the grievance in writing within fourteen (14) calendar days after completion of the meeting, unless otherwise agreed by the parties.

The Lodge shall be permitted to have up to two (2) representatives attend such meeting with the aggrieved Employee. Management may have up to two (2) representatives at such

meetings. The Human Resources Director of the City of Newark may also attend the meetings at the third (3rd) step.

At this step the grievant, or his representative, must file copies of the grievance with the Human Resources Director.

STEP 4. Arbitration

If a written notice of intent to file under the Arbitration Procedure in Step 4 is not received by the Human Resources Director within twenty-one (21) calendar days of receipt by the Coordinator or his alternate of the Safety Director's answer, or by the time mutually extended by the parties, the grievance shall be considered to be satisfactorily resolved. Any notice of intent to arbitrate is subject to confirmation by the Fraternal Order of Police, Ohio Labor Council, Inc. A joint letter requesting the Federal Mediation and Conciliation Service to submit names of seven (7) arbitrators will be signed and mailed.

Upon receipt of such names, the Lodge and Management shall alternately strike one name until one name remains, the person being selected as the Arbitrator. The party requesting the arbitration shall make the first strike from the list of arbitrators. A date for arbitration shall be agreed to within thirty (30) calendar days of the Arbitrator being selected in accordance with the wishes of Management, the Lodge and the availability of the Arbitrator. The Arbitration hearing shall be held at a mutually agreed location.

The Arbitrator shall have no power to add to, subtract from, or change any provisions of this Agreement. The Arbitrator shall have no power to make any decision or award which is, in any way, inconsistent with applicable laws or administrative rules or regulations which have the effect of law. The arbitrator's decision shall be limited to the specific issue submitted. His decision and award shall be confined exclusively to his interpretation and/or application of the express provision(s) of this agreement to the facts of the grievance presented. Unless the parties agree to a written extension, the Arbitrator shall submit his decision in writing within thirty (30) calendar days following the later of: the close of the hearing or the submission of the briefs by the parties. A decision rendered by the Arbitrator, consistent with the terms of this Agreement, shall be binding upon the Lodge, the Management, the Grievant and all the Employees covered by this Agreement. In the event of a monetary award, the arbitrator shall limit any retroactive pay to the date the grievance was filed. Each party hereto shall pay the expenses incurred in the presentation of its own case. The expenses incident to the services of the arbitrator shall be borne equally by the parties. Only the Lodge, through the Coordinator or his alternate and confirmed by the FOP/OLC may authorize an appeal to arbitration for the bargaining unit members, and its decision, based on the facts presented, shall be binding on the Employees covered by this Agreement. Upon request, the Lodge will furnish Management appropriate certification that the appeal has been duly authorized. Notification by the Fraternal Order of Police, Ohio Labor Council, Inc. shall constitute appropriate certification or authorization.

Management shall have the right to appeal violations of the Agreement to arbitration.

**ARTICLE 18  
PROGRESSIVE DISCIPLINE**

The employer may discipline employees for just cause. The principles of progressive disciplinary action shall be followed with respect to chargeable minor offenses such as, but not necessarily limited to, tardiness and excessive absenteeism; where the Employer and/or supervisor determines the appropriate progression of disciplinary action which shall include the following order: oral reprimand; written reprimand, and suspension for the same or similar offenses prior to dismissal.

**ARTICLE 19  
PERSONNEL FILES**

**Section 19.1. Records of Discipline**

Upon the request of the employee, records of discipline, shall be removed from the employee's personnel file and placed in a stale disciplinary records file pursuant to the following schedule, as long as the employee has received no subsequent discipline within the respective time frame. The date of issuance of the discipline will be used as the starting time to determine the time frame that the record of discipline can be used against the employee. If there are subsequent disciplines, then the last record of discipline shall determine the time frame after which records of discipline can be transferred to stale disciplinary records file, which shall be located in a cabinet within the Human Resources Department that is separate from where the employee's personnel file is maintained.

<u>Records of Discipline</u>	<u>Time Frame of Disciplinary Action</u>
Oral Reprimand	twelve (12) months
Written Reprimand	eighteen (18) months
Suspensions	forty-eight (48) months
Demotion or Termination	permanent

**Section 19.2. Reviewing Personnel Files**

The official personnel file for each employee covered under this Agreement will be maintained by the Human Resources Department. The file shall be secure, available at all reasonable times for the employee's inspection pursuant to Article 19.3 and shall contain only:

- a) Original application and resume,
- b) Pre-employment background investigation,
- c) Records of transfers, promotions, resignations or re-employment,
- d) Records of commendations, awards, certificates, or letters of appreciation,
- e) Records of discipline (consistent with the schedule provided above in Article 19.1),
- f) Receipt of policy handbook,
- g) Copy of Oath of Office,



- h) Record of employee's orientation checklist,
- i) Letter of appointment
- j) Tuition reimbursement requests and approvals,
- k) Records of increases in pay, vacation and longevity, and
- l) Employee performance evaluations and the employee's response, if any,

Any documents or records which meet the Ohio Revised Code or Americans With Disabilities Act definition of "medical record" or which are kept pursuant to a claim for workers' compensation or medical insurance shall be kept separately from the personnel file and shall remain confidential consistent with all applicable laws.

Any records which document an employee's training and certification shall be maintained in a separate file in the custody of the Training Bureau Supervisor.

All of these records shall be maintained during the course of employment and for at least two years following separation or pursuant to the Department's records retention schedule, whichever is longer.

### **Section 19.3. Reviewing Personnel Files**

#### **A. By Bargaining Unit Members**

Every employee will be allowed to review the contents of his or her official personnel file at all reasonable times during the regular business hours of the Human Resources Department where such file is kept. Any employee wishing to review his or her file will make a written request to the Director of Human Resources who will then permit the employee to examine the file.

An Employee may designate an appropriate representative to review his/her individual personnel file.

For the duration of this Agreement, and any extensions thereof, if an employee, upon examining his/her personnel file, disputes the accuracy, in those documents to which he/she has access, the employee may request the Director of Human Resources, in writing, to investigate the disputed information. The Director of Human Resources will within five (5) days, exclusive of Saturday, Sunday and Holidays, after receiving the request from the Employee, make a reasonable investigation of the disputed information, and will notify the Employee of the results of the investigation and the action, if any, to be implemented with respect to the disputed information. The Director of Human Resources will delete any information that is found to be inaccurate.

If after such determination the Employee is not satisfied, he/she may write a brief statement of his/her position on the disputed information, and such statement will be attached to the file. In any subsequent transfer, report or dissemination of the disputed information which includes a statement by the Employee, the Employer may include a written statement that he/she has reasonable grounds to believe that the dispute is frivolous or irrelevant and the reasons for this belief.

The above Article is written in accordance with Chapter 1347 of the Ohio Revised Code, and will be amended so as to comply with any future amendments or rules adopted and promulgated with respect to the above mentioned Chapter.

**B. By Non-Bargaining Unit Members**

All requests to review the personnel files and records of employees covered by this Agreement by members of the public shall be processed as follows:

- a) The Human Resources Department will request that the person requesting to review the records provide their name and address;
- b) If possible before the information is released, the Bargaining Unit members will be notified in writing, and if reasonably feasible, by a telephone call, that a request has been made to review their personnel files;
- c) Before releasing the file and/or records to be reviewed, the Human Resources Department will endeavor to review the personnel file/records with the Law Director's office within twenty-four hours of the request in order to ensure that the records contain no confidential material;
- d) A city employee will remain with the personnel file/record while they are being reviewed pursuant to public records request so that no information can be added, removed or modified.
- e) The Bargaining Unit member will be notified when a request is made for copies of any records or documents from his or her personnel file and will be provided upon request with copies of any documents which are provided pursuant to the records request.

**Section 19.4. Counseling Records**

Records of counseling and/or coaching sessions shall be maintained by the issuing supervisor. Such records may form the basis of disciplinary action, but are not, of themselves, disciplinary action and thus are not subject to the grievance procedure. These counseling sessions (oral or written) shall not be considered for purposes of progressive disciplinary action after six (6) months provided that no further disciplinary action occurs within that time.

**Section 19.5. Events Tracking System**

To the extent that the Department's computerized Events Tracking system or any other system maintained by the City reflects records of disciplinary action governed by this Agreement, the records retention schedules referenced in Sections 19.1 and 19.2 shall apply to these computerized records and separate indices must be created to transfer and store stale disciplinary records.

**Section 19.6. Overtaken Disciplinary Action**

Any disciplinary action which is modified through the grievance procedure shall be so noted in the personnel file and, if completely reversed, shall be, regardless of the schedule set forth in Section 19.1, removed and placed in the investigative file.

**ARTICLE 20**  
**PERFORMANCE EVALUATION**

Performance evaluations may be conducted by the City and if so, the signature of an Employee shall be required on performance evaluations. Such signature will mean only that the Employee has read the evaluation. Once signed by the Employee, no comments, corrections, deletions, substitutions or additions may be made to the Employee's evaluation report without permitting the Employee to read such report and again sign the same.

**ARTICLE 21**  
**ASSIGNMENT/PROMOTIONS**

**Section 21.1. Posting Position Openings**

The Human Resource Department will provide the Chief, for posting on the F.O.P. bulletin board, copies of announcements of job opportunities in the classified competitive service, together with announcement of job opportunities for the openings in the classified non-competitive service. The Chief in turn will make such information available to the F.O.P. or any other interested person in his Division. The Chief of Police shall post all vacancies for positions of sworn officers within the bargaining unit. Members wishing to fill such vacancies shall respond back to the Chief of Police in writing, and such response shall include the member's qualifications and reasons why the employee is interested in the position.

**Section 21.2. Transfer of Personnel**

The Chief shall have exclusive control of the stationing and transfer of all police officers, reserve police officers, and other officers and employees of the Police Division, and police auxiliary units, unless otherwise modified by this Agreement under such general rules and regulations as the Director of Public Safety prescribes. Any stationing and/or transfers which in the opinion of the members affected were done without just cause shall be referred to the grievance procedure. Under normal circumstances, the Chief shall give at least a fourteen-day notice before changing an officer's assignment, unless a shorter time is by mutual agreement.

**Section 21.3. Seniority**

In exercising his exclusive control under Section 737.06, Ohio Revised Code, the Chief shall give consideration to the seniority of the applicants in making assignments. When all other objective criteria are equal, as determined by the Chief, seniority will be the deciding factor. Seniority shall not be lost because of employee action taken by the City (such as suspensions), with regard to shift selection, vacation or team selection.

**Section 21.4. Tenure**

- A. **Promotional Testing.** The terms of this Agreement shall control the promotion of officers within the classified civil service as long as the decision in DeVinnish v. Columbus (1991), 57 Ohio St.3d 163 remains valid. If DeVinnish is ever

overruled or abrogated, all classified positions above the rank of police officer in the Police Division shall be filled in accordance with the Ohio Revised Code, Section 124.44, and the applicable rules of the Civil Service Commission of the City of Newark, Ohio.

B. Testing for Sergeants. At least six months prior to the expiration of a current eligibility list, the City shall post a notice of the holding of a promotional examination for Sergeant. All testing for promotion with the Newark Division of Police will be done with strict adherence to the highest professional standards so as to ensure a fair and impartial test result. The examination questions and sections will be pertinent to the position for which the test is being given. If the City decides to significantly change the testing procedures, it shall advise and consult with the FOP/OLC before making the changes. All facets of the test shall be administered and scored by an independent testing service selected by the City of Newark Director of Public Safety, and the Civil Service Commission. The City and the City Civil Service Commission shall, in accordance with the Commission's rules, revoke a current eligibility list once it is ready to post the final results of a new promotional examination. The time for giving a promotional examination may be postponed for one year with the written consent of the OLC/FOP when, for instance, no turnover is anticipated in the next year in the position of Sergeant.

C. Test Construction. All promotional tests will be comprised of the following:

1. Written exam that includes at minimum one hundred (100) multiple choice questions.
2. An assessment center process consisting of up to four components including both written and oral exercises.
3. Candidates must score a minimum of 70% on the written exam in order to participate in the assessment process.

The scale for the complete test is 200 points. The written multiple-choice section will consist of 100 points. The assessment center process will be valued at 100 points.

After all sections are completed and scored, seniority and educational points will be granted. All dates utilized for seniority points will be calculated from the date of the written test. They will be calculated as stated below:

1. Four (4) years of completed service, four (4) points will be applied.
2. Each completed year after the above, 6/10 (.6) points per year will be applied to the maximum of ten (10) points.
3. Each completed year in rank, one (1) point up to (5) points maximum will be applied.

All degrees obtained from an accredited university and utilized for educational points will be calculated from the date of written test. They will be calculated as stated below:

1. Associate Degree- a total of one-half (1/2) point will be applied.
2. Bachelor Degree- a total of one (1) point will be applied.
3. Master Degree- a total of one and one half (1.5) points will be applied.

In case of a tie, department seniority (time/date) of hire will be utilized.

D. Reference/Study Material.

1. The standard list of reference material will include:

- a) General Orders for the Division of Police,
- b) Newark Division of Police Search and Seizure Manual, and
- c) FOP/City of Newark Collective Bargaining Agreement.

Promotional tests will be created to include the above material. This material will be utilized to construct at least eighty percent (80%) of the written exam. This material will not be “open book.”

2. The balance of the test can be constructed utilizing two (2) additional references. The Director of Public Safety will select these references. The additional reference materials will be “open book”, during testing. The “open book” section of the test shall be weighted at twenty (20) percent of the written / multiple choice test.

E. Eligibility for Promotion

- 1. Any regularly appointed, full-time Police Patrol Officer who has served four (4) or more years past his/her original, full-time, regular probationary appointment date with the Newark Police Division, at the time the test is given, is eligible to take the examination for Sergeant.
- 2. Any regularly appointed, full-time police Sergeant, who has served three (3) years past his/her original appointment date as a Sergeant with the Newark Police Division, at the time the test is given, is eligible to take the examination for Captain.

F. Challenges and Appeals. Test scores shall be posted within 14 days of receipt from the testing service. Examination participants may file a challenge or appeal with the Civil Service Commission to any question, portion of the testing process, incorrect scoring, or unfairly phrased question within ten days of when the Commission posts the scores of the promotional examination in accordance with Civil Service Commission rules. A copy of such challenge or appeal shall be provided to the Director of Human Resources. Failure to timely file such a challenge with the Commission and Director of Human Resources waives any right by the member to challenge the results of the promotional examination. The Commission shall act on the appeal or challenge in accordance with its existing rules and regulations within 45 days of receipt. Final grades are to be posted within ten (10) days after completion of the appeal process. Should the Commission fail to resolve all pending challenges and the employee may appeal the decision thru legal means outside of the City of Newark and FOP Lodge 127 Bargaining Unit Agreement. All deadlines may be extended with the express written permission of the FOP/OLC and with the understanding that no

subsequent back pay award may include any period of time covered by this Article or extension to the deadlines in this Article.

- G. Eligibility List. Within 5 days of when any challenges have been resolved in accordance with Article 21.4(f) or when the scores are posted, a list of eligible candidates for promotion, descending from the highest score, for each rank for which a test was given, shall be compiled and posted by the Civil Service Commission or, if applicable, the Director of Human Resources. The eligibility list shall remain in effect for two (2) calendar years from date of posting final score or until it is revoked by the Commission in accordance with this Article. In the event that no eligible candidates remain on any eligibility list for Sergeant and/or Captain prior to the expiration date, a new test shall be given.

H. Appointment. The promotional appointment shall be made from the eligibility list within ten (10) days after a vacancy occurs in the absence of compelling circumstances.

**Section 21.5. Promotional Probationary Period**

A. There is a six (6) month probationary period for the position of Sergeant and Captain. For each promotion, there is an additional eighteen (18) month probationary period to successfully complete one of the following or equivalent schools; PELC, NW Command School, SW Command School, CLEE, FBI National Academy, Case Western LE.

If course is not successfully completed it is grounds for placement back to previous rank and seniority prior to promotion.

**ARTICLE 22  
NOTICE OF REORGANIZATION**

The City will notify the F.O.P. in writing and fourteen (14) days in advance of its intentions to reorganize the Police Division to substantially modify the functions of any position or to eliminate any established job classification, in the Police Division.

**ARTICLE 23  
COPIES OF AGREEMENT**

The City will provide an electronic copy of this agreement within sixty (60) days of the date this Agreement is ratified by Council.

**ARTICLE 24  
WAGES**

**Section 24.1. Wage Table** The wage scales for the employees covered by this Agreement are attached as Addendum B. All months listed in the Addendum are inclusive.

Sergeant Wages

Sergeant Rank Differential shall be listed below:

January 2017 18% above the top step patrol wages

**Section 24.2. Instructor Pay**

Any Bargaining Unit Member who, 1), is recognized as a state certified instructor or a certified instructor in a specific discipline 2) is assigned in advance by the division to conduct on-site training of other officers shall receive one hour of comp-time at the time and one half rate for each 5 (five) hours accumulated time of instruction worked as an instructor. To qualify as an instructor the member must be approved through the division training sergeant and also provide documentation to show training was conducted.

**ARTICLE 25  
SHIFT DIFFERENTIAL**

**Section 25.1** Bargaining Unit Members shall receive a differential in pay when assigned to a second and third shift. For the purposes of this Article the following applies:

- A. For members assigned to the patrol bureau, second shift shall be any shift which begins on or after 1600 hours, and third shift is any shift which begins after 2100 hours. These members receive shift differential on all paid hours.
- B. For members assigned to non-patrol bureaus, second shift is any shift which begins between 1200 hours and 2400 hours (midnight). Employees in this category receive shift differential for the entire shift worked. For members to qualify under this category they must have prior approval from a supervisor.

The shift differential will be paid at 3% of the top patrolman’s rate of pay.

- C. For payout purposes shift differential does not apply.

**ARTICLE 26**  
**HOURS OF WORK, OVERTIME, STAND-BY PAY AND OVERTIME CALL-IN**

**Section 26.1. Hours of Work**

The standard workweek for all Bargaining Unit Members shall be forty (40) hours. The standard workday for officers assigned to uniform patrol and the detective bureau shall be ten (10) hours with an officer having three consecutive days off each workweek.

The current shifts for the City of Newark's Police Department, Patrol Bureau, are as follows:

1 <sup>st</sup> Shift	0730 hours to 1730 hours
2 <sup>nd</sup> Shift	1700 hours to 0300 hours
3 <sup>rd</sup> Shift	2200 hours to 0800 hours

Subject to providing the FOP/OLC with two (2) calendar weeks' notice in writing, any change in the scheduled beginning times and ending times of the listed shifts shall be made by the Chief of Police, except where Article 33 applies or for just cause. The starting times of the shifts will not be rescheduled more than one (1) hour before or after the present starting times of the shifts. Rescheduling of shifts will not be used for the primary purpose of avoiding the application of overtime. There will be no rotating shifts for employees covered by this Agreement and during the term of this Agreement. The Chief reserves the right to assign personnel due to expected or unplanned absences for illness or injury of a bargaining unit member lasting more than four (4) weeks.

Personnel so replaced will return to that shift or assignment when possible, or, in the case of a sign-up during which the employee is off, the employee will be permitted to sign up and take the new shift when he/she returns to regular duty.

There will be a sign-up for the Patrol Division every six (6) months by seniority. The new signups will take effect the first full pay period after January 1<sup>st</sup> and the first full pay period after July 1<sup>st</sup> each year. Bargaining unit members will make their choices, by seniority, during the three (3) weeks prior to the new sign-up taking effect. Bargaining unit members may submit their shift choices in writing or may, on their own time, report to the station and view the patrol Division Team assignments before selecting an open slot. The Chief reserves the right to place bargaining unit members with less than one (1) year of service or bargaining unit members currently on probation or any other member(s) for "just cause".

Employees assigned to specialty positions will work forty (40) hours in a workweek but shall work a flex schedule to accomplish their assigned task. The use of the flex schedule is to avoid any unnecessary overtime that can be eliminated by flexing the schedule. These specialty assignments include the following; Community Policing, D.A.R.E. Officers, School Resource Officers, Officers assigned to the Drug Task Force. Officers assigned to these positions shall have at least two consecutive days off in a workweek. When any sworn officer, excepting the Chief or Deputy Chief, is required to perform in any active pay status for more than forty (40) hours in any calendar week or more than eight (8) or ten (10) hours in one day, depending on shift assigned, he or she will be compensated for such over-time performance as follows:



**Section 26.2. Overtime**

Employees shall receive overtime pay, or compensatory leave time in lieu of overtime pay for actual work performed (not including sick leave, vacation, or other time off) which exceeds the normal work day or week within any pay period. Employees eligible for over-time compensation may elect compensatory leave time or a cash emolument. The employee shall designate in writing which form of remuneration he/she elects when he/she turns in his/her over-time slip to the appropriate supervisor.

A. Compensatory Leave Time:

When elected, compensatory leave time at the rate of one and one-half (1-1/2) hours, for each over-time hour worked, will be credited to the employee's compensatory record. Compensatory time shall not be permitted to accumulate in any amount greater than four hundred and eighty (480) hours.

Employees shall elect the date on which they wish to schedule their compensatory time off and shall request the time off at least two (2) days in advance, except in emergencies. The employee must have the advance approval of the immediate supervisor or Deputy Chief before any compensatory time is used. The immediate supervisor or Deputy Chief shall consider the operational needs of the Division before granting compensatory time off.

All requests for compensatory leave for the two (2) days following the day of request shall be answered at least twenty-four (24) hours prior to the beginning time of the time off. All other request shall be answered within forty-eight (48) hours of the request. Employees will not be compelled to take compensatory time off. Once compensatory time off is approved, it shall stand approved.

Employees will be permitted to carry their accrued unused compensatory time into the following calendar year provided the time does not exceed the permissible accumulation of four hundred eighty (480) hours.

B. Cash Payments:

When elected, a cash payment will be made to the employee for over-time hours worked. This payment will be calculated at one and one-half (1-1/2) times the employee's hourly regular rate of pay times each over-time hour worked.

Over-time slips must be turned in within two (2) weeks after the over-time was worked. If turned in later than two (2) weeks, they will not be honored.

**Section 26.3. Stand-By Pay**

Stand-by pay is defined as payment for an assignment which requires an employee of a specialty unit (i.e., K-9, Special Operations Group, Hostage Negotiators, and/or Detectives) to be available on a continuous basis during his/her normal off-duty hours, when specifically notified as such. The affected employee shall restrict his/her activities, to include no usage of alcoholic beverages or other substances which may impair the employee's performance, so as to be able to respond to the incident location or headquarters within twenty-five (25) minutes. All employees are required to acknowledge receipt of message and report with their status as directed by the message. Stand-by time shall not be considered as hours worked for purposes of overtime. Stand-by assignments shall be determined by the Chief of Police or his designee. The rate of stand-by pay shall be determined as follows:

Employees on stand-by shall receive compensation in the form of two (2) hours compensatory time for every twenty-four (24) hours, or portion thereof. For example, an employee on standby for eleven (11) hours shall receive two (2) hours comp time. An employee on standby for twenty-five (25) hours shall receive four (4) hours comp time, etc.

An employee who is called to work (other than as regularly scheduled) while on stand-by shall be paid, instead of stand-by pay, time and one-half for all hours worked (to include minimums as defined in Article 29), but not less than the applicable amount stated above.

**Section 26.4. Overtime Call-In Procedure**

A. UNPLANNED PATROL VACANCIES

Step # 1

Vacant Patrol Officer position(s) on a patrol shift will be covered by Patrol Officer(s). The immediately preceding patrol shift and the immediately subsequent patrol shift will be offered the first opportunity by seniority to cover the shift in an overtime capacity.

Example 1.

If the current shift experiences a manning shortage, officers from the next or on-coming shift will be called in on a seniority basis, i.e.; starting with the most senior member of the team and selecting in a descending order.

Example 2.

If the next shift to report for duty is below manning needs, the senior officer from the current shift will have the first opportunity to work overtime. All vacancies will be filled on a descending seniority basis.

Step #2

After this selection process has been exhausted, overtime opportunities will be offered to other officers assigned to patrol teams on a rotational basis. The rotation shall begin by seniority and descend there from. Once a patrol officer is given an opportunity to cover a portion of a shift, he/she will not have an opportunity until all other patrol officers within the respective patrol division has been asked rotationally.

Example 1.

Patrol officer #1 is asked to cover a shift. The officer declines and the request flows down to patrol officer #20 who accepts. On the next opportunity, the list starts at patrol officer #21 and so on through the entire list, and then reverts back to patrol officer #1. There shall be a list of patrol officers assigned to the patrol division by seniority.

Step #3

After steps #1 and #2 have been exhausted, overtime opportunities will be offered to all other patrol officers' rank through the entire police division (including, but not limited to, detectives, COPS/POP's, SRO's, DARE and Drug Unit). This will be done on a rotational basis. The rotation shall begin by seniority and descend there from. Once a patrol officer in this category is given an opportunity to cover a portion of a shift, he/she will not have an opportunity until all other patrol officers within this respective category have been asked rotationally.

B. PLANNED OVERTIME VACANCIES – EVENTS

A planned event is defined as an event that may occur annually, semi-annually, monthly, weekly or that otherwise occurs extraordinarily. Examples of a planned overtime event include, but are not limited to: The Hot Music Weekend, Gus Macker Basketball tournaments, parades and festivals. All planned event overtime opportunities shall be offered each time on a seniority basis. Each event is to be considered separate and overtime will be offered for each event based on seniority. Planned overtime vacancies will be distinguished by rank (Captains will work positions dedicated for the rank of Captain, Sergeants will work positions dedicated for the rank of Sergeant, and Patrol Officers will work positions dedicated for Patrol Officers).

Further, planned overtime opportunities specific to a particular bureau, will be worked by members of the bureau, or unit. If the overtime opportunity is not filled form within the, bureau, or unit then the overtime opportunity may be opened by Division wide following the tenets of the preceding paragraph concerning planned overtime. Determination that an event should be limited to a particular sub-division, bureau, or unit will be based on specific articulable factors to include, but not limited too, case investigation or maintenance responsibility, advanced or specific training, familiarity or certification with specialized equipment, etc. Examples of these situations would include a Detective working overtime on a case or specific cases. Special Operations Group (SOG) team members being assigned overtime for high-risk surveillance, or Patrol Officers assigned to guard a suspect who is in the hospital.

The Chief of Police shall convene a meeting between the FOP/OLC employee representatives and himself or his representative to come to an agreement as to a particular situations status as a planned event and its limiting factors. The Chief may if time does not immediately permit a meeting, make the determination and meet at the earliest possible time

with the FOP/OLC employee representatives to make a final determination. While the Chief makes the final determination, any perceived violations of this Article, the collective Bargaining Agreement, or if no agreement can be reached, redress may be sought through established grievance procedures.

C. NOTIFICATION FOR UNPLANNED AND PLANNED OVERTIME

After determining who is to be contacted, a telecommunications message (page) will be transmitted as notification. The message will include the relevant hours and assignment. If there is no response from the officer within five (5) minutes, a phone call will be made to the officer's home, unless the officer provides an alternative phone number to be called. If no contact is made, move on to the next officer in line. The on-duty sergeant is responsible for the notification process. This task may be designated. The on-duty patrol sergeant may order an officer to work if he believes it is in the best interest of the division.

Circumstances and demands must demonstrate this however. A detailed record of notifications will be kept on file to assist with any possible grievances filed by the employees.

The Chief reserves the right to reassign personnel due to expected or unplanned absences of an illness or injury of a bargaining unit member of more than 4 weeks.

Personnel so replaced will return to their shift or assignment when possible; or, in case of a sign-up occurring while the employee is off, the employee will be permitted to sign-up and take the new shift when he/she returns.

**ARTICLE 27  
LONGEVITY**

In addition to their regular base pay, each employee will receive longevity compensation in accordance with the following schedule:

Beginning of the 5<sup>th</sup> year through the completion of the 9<sup>th</sup> year of continuous service \$.21 per hour.

Beginning of the 10<sup>th</sup> year through the completion of the 14<sup>th</sup> year of continuous service \$.27 per hour.

Beginning of the 15<sup>th</sup> year through the completion of the 19<sup>th</sup> year of continuous service \$.35 per hour.

Beginning the 20<sup>th</sup> or more years of continuous service \$.43 per hour.

Longevity pay is based on continuous years of service with the City of Newark.

Payment of longevity compensation will be added to the employee's hourly base rate of pay.

**ARTICLE 28**  
**UNIFORM QUARTERMASTER**

**Section 28.1.** On January 1 of each year the City shall create a quartermaster fund consisting of moneys equal to the full amount due that year per sworn officer in Newark Police Department as of January 1. This aggregate amount of money shall be used by the police officers of the Newark Police Department to purchase uniform and equipment approved and used by sworn officers of the department. All allotted monies must be spent between January 1<sup>st</sup> and November 15<sup>th</sup> each year. After November 15<sup>th</sup> any money which a bargaining unit member has remaining of their allotment shall be paid to the officer in the form of a payroll check issued between the last pay period in November and the first pay period in December. The amount of the check shall be the full amount due that year minus the cost of any items purchased through the Quartermaster System. This money shall only be paid once the bargaining unit member meets the required uniform items criteria as indicated in Section 28.8 of Article 28.

**Section 28.1.1** The amount will be \$1,550.00.

**Section 28.2.** The Auditor/Treasurer shall supply to the Quartermaster, through the Chief of Police, a monthly report indicating the amounts spent and amount remaining in the fund. This report shall commence January 1.

**Section 28.3.** Police Division General Orders will be maintained, to provide for the proper and equitable distribution of uniforms and equipment.

**Section 28.4.** The position of Quartermaster is created within the division of Police. This sworn employee of the rank of Sergeant shall be responsible, in addition to any regular assigned duties, for the administration of this program. The Quartermaster shall be appointed by the Chief of Police, subject to the requirements of Article 21 of this contract.

**Section 28.5** Employees whose permanent assignment require or permit them to wear civilian attire (as determined by the Chief of Police and Division General Orders) shall be permitted to utilize all of their allotted monies, per calendar year from the described fund for the purchase of appropriate clothing and cost associated with the purchase/ordering of such clothing (i.e. shipping). Those bargaining unit members deemed non-uniform must complete an annual inspection for the required uniform items applicable to non-uniformed employees as outlined by current General Orders. After successfully completing the required uniform inspection, non-uniformed employees can utilize the fund to purchase the appropriate clothing as indicated by the current Policy and General Orders. Non-uniformed employees shall be reimbursed as instructed in Article 28 Section 28.1. No reimbursement will take place if the bargaining unit member has not completed the mandatory annual inspection for non-uniformed employees. Employees assigned after January 1 of any calendar year may use any of their allotted amount for such purchases. To be reimbursed officers must turn in all receipts no later than November 15 of the calendar year to qualify for reimbursement.

For the purposes of this Article only, on or about January 1, the Chief of Police shall designate each sworn employee as either uniformed or non-uniformed. Non-uniformed

employees shall then be eligible for reimbursement pursuant to this Article. The criteria used to determine whether civilian clothing qualifies for reimbursement shall be spelled out in General Orders. The quartermaster will complete an annual mandatory uniform inspection, specifically recording the required items needed for uniformed and non-uniformed employees. The Quartermaster will also look for serviceability of the required items. The required items that are not accounted for or serviceable will be ordered through the Quartermaster before any other optional items can be purchased.

Any employee, whose employment with the City is terminated for any reason, shall not be required to repay any of the monies the employee received under the reimbursement procedure of the Quartermaster System. The one exception to this would be an employee found guilty of criminal misconduct directly pursuant to the application of this Article.

**Section 28.6.** Personal items that are damaged, stolen, or lost in the line of duty shall be replaced with funds other than funds from the Quartermaster Fund. There is a limit of \$125.00 per item and a maximum of \$250.00 per incident. An example of items that would be covered include; watches, prescription glasses/contacts, non-uniform business attire, and any other personal item approved at the discretion of the Chief of Police.

**Double check the TA**

**Section 28.7. Quartermaster Items – Authorized List**

**General uniform requirements:**

Duty hat  
L/Sleeve uniform shirt  
S/Sleeve uniform shirt  
Uniform trousers  
Duty jacket w/liner  
Raincoat  
Rain cover for hat  
Duty shoes/boots  
Trouser belt  
Tie (clip-on or Velcro) w/tie bar  
Metal nameplate  
Black socks  
T-shirts (white or black)  
Badge  
Service stars  
Pistol duty belt  
Belt keepers  
Handcuffs (hinged or chain) with key(s)  
Handcuff case  
Handgun Holster  
Magazine pouch  
Flashlight (rechargeable) w/appropriate holder  
Nylon duty bag  
Citation book holder

Report book holder

Working cell phone with texting capabilities/voice capabilities provided by the employee, and carried on duty at all times.

Cell phone (no tablets, ectc.)

Cell phone accessories, charger, battery, protective case, etc.

**Additional uniform items, optional:**

\*\*These items can be requested once the Quartermaster is satisfied that all individual officers have the required items. It will also be the discretion of the Quartermaster and approved by the Chief of Police to order these items as the individual officers budgeted account permits.

Cold weather items; gloves, muffs, scarves, overshoes, insulated boots, turtle necks, dickies, long underwear, black toboggan w/ NPD embroidered, and winter cap.

Baton w/case

Folding knife w/case

Leatherman type tool w/case

Extra handcuffs w/case

Whistle and chain

Rubber gloves w/pouch

Leather frisk gloves

Complete Dress Uniform; jacket, trousers (skirt), shirt, dress leather gear, white gloves, hi-gloss dress shoes, and black leather shoulder strap

Business cards

Car seat organizer

Cassette tape recorder

Safety glasses

Badge holder/wallet

Off duty holster(s)

Traffic wands to fit officer's flashlight(s)

Additional uniform(s)

Cold weather boots

Tactical mirror

Flashlight bulbs

NPD Badge(s) (extra and for wallet/concealed carry) Limit of 2

Shoelaces

Rain gear (tops, bottoms, ponchos)

Hearing protection

Insoles for boots/shoes

Re-sole boots/shoes

Alterations/tailoring

Additional ballistic vest carrier

Handcuff key

Specialty uniform(s)

Night Vision Optics

Binoculars

Bag holsters

Handcuff strap  
Boot traction aids  
Shoe polish  
Thermal hood  
Reference materials  
Gun safe  
Shirt stays  
Dry Cleaning  
Off duty backup weapon- approved shotgun/AR 15 rifle- one each per contract

Members of tactical/specialty units can purchase specialty items at the discretion of the Tactical/Specialty Unit Supervisor, the Quartermaster, and the Chief of Police.

**Items to be supplied by the Division of Police:**

Badge  
Police Hat Shield  
Awards, decorations, and insignia  
Police identification card  
OC chemical agent w/carrying case  
All department patches  
Ballistic vest (replaced according to manufacturer's specifications)  
Replacement of ballistic vest carrier that is unserviceable  
Radio w/shoulder microphone, recharger, and two batteries  
Batteries  
Riot helmet  
Riot baton  
Gas mask  
Handgun, w/three magazines, and initial holster (if the division changes models of handguns)  
All tactical unit and specialty unit initial issue uniforms, equipment, and weapons (including, but not limited to SOG, Bike Patrol, K-9, Honor Guard, etc.)

\*\*\* Current General Order, Chapter 5, Section 15, Uniforms and Appearance, dated 04-07-2000, will govern the number of required items per officer.

\*\*\* The Labor Relations Committee must come to an agreement prior to adding or deleting items to/from the Quartermaster List.

**ARTICLE 29  
CALL-IN AND COURT PAY**

**Section 29.1.** Employees who are called to duty or subpoenaed to provide testimony as a witness on a duty day other than during their regular duty hours will be compensated at the rate of one and one-half (1-1/2) times the employee's regular rate of pay, but in no event will the employee receive less than three (3) hours pay for such call-in duty. The employee's regular rate of pay will be determined for over-time purposes as the wage per hour for such employees as set forth in the controlling wage table. No employee will be eligible for call-in pay if the reason for



being called to duty is to complete or correct work which he/she should have performed during regular duty hours but did not do so through his/her own fault or negligence. Testimony or call-in duty scheduled within one (1) hour before the employee's regular duty shift will not be applicable to this Section.

**Section 29.2.** Employees of the Division of Police who are called to duty or subpoenaed to provide testimony as a witness on an off duty day or while on vacation leave will be compensated at the rate of one and one-half (1-1/2) times the employee's regular rate of pay, but in no event will the employee receive less than four (4) hours pay for such call-in duty. The employee's regular rate of pay will be determined for over-time purposes as the wage per hour for such employee as set forth in the controlling wage table. No employee will be eligible for call-in pay if the reason for being called to duty is to complete or correct work which he/she should have performed during regular duty hours but did not do so through his/her own fault or negligence.

**Section 29.3.** Court notifications (notices to appear or not to appear), prosecutor follow-ups and other division inquiries will be done by telephone, written communication or in person with the officer involved. Any cancellations other than the day of shall not be compensable.

**Section 29.4.** Employees notified at least one hour prior to court time will be compensated at two hours (2) of compensatory time. Notification shall be as means spelled out in 29.3. Notifications less than one hour will be compensated as spelled out in 29.1 or 29.2.

**Section 29.5. Witness Fees.**

Bargaining Unit members employees entitled to over-time pay because of a court appearance or entitled to call-in pay under this Agreement may elect cash payment or compensatory time at the rate of one and one-half (1-1/2) times, subject to this Article. Pursuant to Section 2335.17 of the Ohio Revised Code, no Police Officer employee is entitled to retain witness fees received for appearing as a witness in court or before the grand jury. Such fees will immediately be deposited with the Treasurer of the Police Relief and Pension Fund, or, if no such fund is maintained, such fees will be deposited with the Treasurer of the Municipal Corporation, to the credit of the General Fund.

**ARTICLE 30  
WORK OUT OF RANK**

**Section 30.1.** For the purpose of this section only, the Patrol Bureau and the Detective Bureau will be counted as two (2) separate bureaus. When it is deemed necessary by the Chief of Police or his designee that an upgrading is necessary, the upgraded position will be made from within the ranks of the affected Bureau (Patrol or Detective). The bargaining unit member receiving the temporary upgrade shall be paid at the appropriate rate of pay for that upgraded position.

**Section 30.2.** A vacant Sergeant position of a patrol unit will be covered by a Sergeant. The immediately preceding duty/street Sergeant and the immediately subsequent duty/street Sergeant will be offered the first opportunity, in that order, to cover the shift or a portion of the shift in an overtime capacity. For example: If the team three Sergeant is scheduled off, the team one

Sergeant has the first opportunity to cover the shift. If that Sergeant elects to decline the shift, it will be offered to the team six Sergeant. If either immediately preceding duty/street Sergeant and the immediately subsequent duty/street Sergeant elects not to provide coverage, the portion of the shift which remains unsupervised, shall be offered to the uniform administrative/specialty unit Sergeant assigned to the patrol bureau. If the administrative\specialty unit Sergeant elects not to provide coverage, the portion of the shift which remains unsupervised will then be offered to all other Sergeants assigned to the Patrol Division and then to all other Department Sergeants. This shall be done on a rotational basis. See example 1).

The rotation shall begin by seniority and descend there-from. Once a Sergeant is given an opportunity to cover a portion of a shift, he will not have an opportunity until all other Sergeants within the respective Patrol Bureau have been asked rotationally (see example 2).

Deputy Chiefs assigned to command the Patrol Division shall maintain a record of overtime opportunities, which shall be posted for use at all times. Sergeants may not work more than sixteen (16) hours in a twenty-four (24) hour period, except under emergency conditions acknowledged by the Chief of Police or his designee,.

The Patrol Bureau Deputy Chief may, if he believes it is in the best interest of the Police Division, order a Sergeant to cover a shift. Otherwise, after all Division Sergeants have been afforded an opportunity to cover the shift, the Deputy Chief may appoint an OIC, by seniority, from a pool of working patrol officers for the portion of the shift not covered.

Example 1: Team 2 Sergeant is scheduled for a vacation day. The Team 6 and Team 4 Sergeants are offered overtime first. Team 6 Sergeant elects to work half the shift but Team 4 Sergeant elects not to work. Other patrol Sergeants are then offered the open half of the shift on a rotational basis and then Police Division Sergeants are offered the overtime on a rotational basis.

Example 2: Sgt #1 is asked to cover a shift. He declines and the request flows down to Sgt #6 who accepts. On the next opportunity the list starts at Sgt #7 and so on through the entire list, and then reverts back to Sgt #1. There shall be a list of Sergeants assigned to patrol by seniority and then a list of the remaining police Sergeants by seniority for these rotational overtime opportunities.

Only for the purposes of training and on "training Wednesdays", if a uniform Sergeant is already on duty and available to cover a shift, there will be no requirement to have another Sergeant assigned to cover a vacant shift.

### **ARTICLE 31 MINIMUM PATROL STRENGTH**

The minimum force on a shift will be four (4) patrol officers and one (1) sergeant or patrol officer in charge.

It is hereby understood by the City of Newark, Ohio, and the F.O.P. that management has the right to change this Article for just cause.

**ARTICLE 32  
TARDINESS**

**Section 32.1.** For unexcused tardiness, an Employee reporting late for scheduled duty will be penalized fifteen (15) minutes for each fifteen (15) minute increment or part thereof for which he or she is tardy.

For example: an employee will be considered to be absent from duty and not entitled to pay for fifteen (15) minutes although he or she may be absent for a period of time which is less than fifteen (15) minutes, for being absent for at least fifteen (15) minutes, but less than thirty (30) minutes time, the Employee will be considered to be absent from duty and not entitled to pay for thirty (30) full minutes; for being absent for at least thirty(30) minutes but less than forty-five (45) minutes, the Employee will be considered to be absent from duty and not entitled to pay for forty-five (45) full minutes; and such progression will proceed through the first one-hundred twenty (120) minutes of duty. If the Employee reports after the first 120 minutes (120) of duty time he will not be paid for the time not worked and the Employer may, either send the employee home, without pay or permit him or her to complete their shift.

**Section 32.2.** Implementation of the above penalties will not preclude the Employer from taking additional disciplinary action upon an Employee for unexcused tardiness.

**ARTICLE 33  
TRAINING**

**Section 33.1. Firearms Training and Qualification**

The City will supply any and all materials necessary for any and all training required and/or ordered by the Employer of any Employee(s) of the Police Division. The City will see that all members of the Newark Police Division will qualify with their service weapons and long guns three (3) times per year. The designee of the Chief of Police shall not schedule more than ten (10) members per five (5) hour session of Firearms Qualifications. The City will also see that those sworn officers, who wish to carry their additional and/or off-duty weapons, qualify with them at least once a year. This will be done in accordance with the guidelines set down by the Chief of Police, and agreed upon by the representatives of the F.O.P. which was the result of the Court action in 1981.

**Section 33.2. Professional Training**

The City will see that all members of the Police Division receive professional training instruction on topics related to law enforcement. Training will be scheduled during a regular shift, most often once a month. The training sessions shall normally be for no more than a five-hour block of training and the department shall attempt to assure that officers shall be scheduled for a minimum of sixty hours of training for each calendar year. Members scheduled for training shall not be pulled from training to work patrol unless there is an emergency that exists that would justify the cancellation of training to take care of the emergency. Employees shall attempt to schedule their personal time off to make sure that they are available for the scheduled training

sessions. Officers are willing to adjust their normal shift hours to accommodate these prescheduled training sessions, but not to split their shifts. This training shall not include S.O.G. Training or K-9 Training in the number of hours of professional training. The normal training day shall be the overlap Wednesday. The Chief of Police can vary from the above when it becomes necessary to provide additional training. All training will be done in accordance with guidelines set down by this Agreement. In December of each calendar year, the Chief of Police shall meet with the Employees Relations Committee to discuss annual training issues.

**Section 33.3. K-9 and S.O.G. Training**

For the purpose of continual training for the K-9 officers and their respective dogs, the officers and dogs will be entitled to one shift every other week for K-9 training. The Special Operations Group will be entitled to one (1) training shift per month. The training day may vary from week to week, month to month and will be determined by the Chief, one week in advance. The training day may be deleted in an emergency, and training hours shall not coincide with training hours scheduled in Section 33.1 or 33.2.

**Section 33.4 Compensatory Time and Scheduled Training**

On days that the employees training is scheduled start within six (6) hours of their shift ending, they will only be scheduled for six (6) hours of training. However, their training will only consist of a five (5) hour block. The other one (1) hour would be to eat, clean-up, travel time, etc...

The employee would be compensated at the OT rate (comp time only) for those six (6) hours. That would mean the employee would have nine (9) hours in the books.

The employee would only have to use a one (1) hour of their accumulated comp/vacation time to get their ten (10) hours.

This would only be available for the employees that actually worked the entire ten (10) hours the night before the scheduled training.

If they didn't work the night before the training they would be expected to put in the full ten (10) hours, just like anyone else.

Employees will be required to turn-in OT slips for six (6) hours and the slip must reflect comp time, cash will not be paid for these hours as it pertains to this Section of Article 33. The supervisor will document the appropriate time(s) in the employee's payroll sheets.

For this Section of Article 33 and only this Section, the employee will be allowed to use the comp time earned in the same pay period.

**ARTICLE 34  
RELEASED TIME FOR LODGE MEETINGS**

Provided the Chief is advised in writing at least forty-eight (48) hours in advance and further that the Chief finds that such requested release from duty is not detrimental to the operation of the Division, the Chief will grant any two (2) elected F.O.P. Officers released time off for the purpose of attending and conducting regular or special meetings of the Lodge.

The Officer so released will carry a communications radio with him to the said meeting or provide the dispatcher with the telephone number where they can readily be reached. They will thus maintain contact with the dispatcher and will be subject to call at any time during said meeting if a need arises.

The Lodge will accumulate in the aggregate one hundred (100) hours of non-compensatory leave time each calendar year for its Employee/members to use during that calendar year to attend Lodge functions such as State, National, or local Board meetings, Educational meetings or conferences. The Coordinator will make the written request for leave to the Chief of Police as soon as possible upon learning of the need for such leave but in no event less than seven (7) calendar days prior to the requested commencement of such leave.

Leave days in this Article will not be carried over from year to year and shall only be used for the purpose as established herein during the year in which they were accumulated.

No more than two (2) employees from any one-duty detail will be given leave at any one time. The Chief will not unreasonably withhold his consent to a request for leave but may deny such request if he feels the Division will be affected.

Employee/members who are duly elected delegates by the F.O.P. Lodge to attend the yearly State Fraternal Order of Police Convention will be given, subject to the approval of the Chief based on Department needs, non-compensatory time off to participate in the F.O.P. Convention activities. Non-compensatory time off will not exceed forty (40) hours for one delegate, per calendar year.

**ARTICLE 35  
VACATION**

**Section 35.1.** After one (1) year of employment with the City of Newark, each full-time City employee whose established work week is forty (40) hours shall have earned eighty (80) hours of vacation due upon attainment of the anniversary of the first year of employment, and thereafter, each employee shall accumulate vacation hours each two (2) week pay period based on the following scale:

<u>Years of Service</u>	<u>Accumulated Per Pay Period</u>	<u>Year Amount</u>
Beginning the 2 <sup>nd</sup> year through end of the 5 <sup>th</sup> year	3.9 hours	100 hours

Beginning of 6 <sup>th</sup> year through end of the 12 <sup>th</sup> year	4.6 hours	120 hours
Beginning of 13 <sup>th</sup> year through end of the 18 <sup>th</sup> year	6.2 hours	160 hours
Beginning the 19 <sup>th</sup> year through end of the 25 <sup>th</sup> year	7.7 hours	200 hours
Beginning the 26 <sup>th</sup> year and beyond	9.2 hours	240 hours

**Section 35.1.1** For employees hired after July 1, 2011, the following vacation schedule applies:

<u>Years of Service</u>	<u>Accumulated Per Pay Period</u>	<u>Year Amount</u>
Beginning the 2 <sup>nd</sup> year through end of the 5 <sup>th</sup> year	3.1 hours	80 hours
Beginning of 6 <sup>th</sup> year through end of the 10 <sup>th</sup> year	4.6 hours	120 hours
Beginning of 11 <sup>th</sup> year through end of the 20 <sup>th</sup> year	6.2 hours	160 hours
Beginning the 21 <sup>st</sup> year through end of the 25 <sup>th</sup> year	7.7 hours	200 hours
Beginning the 26 <sup>th</sup> year and beyond	9.2 hours	240 hours

**Section 35.2.** Accrued vacation leave may be taken based on the amount of vacation accumulation shown on the employee's paycheck.

**Section 35.3.** Employees are encouraged to take vacation leave commensurate with the amount of vacation leave earned each year. As of December 31<sup>st</sup> of each calendar year, employees are limited to a maximum accrual equal to three (3) times their current annual accrual rate. This Section does not prohibit an employee from having more than three (3) years worth of vacation accrual until the December 31<sup>st</sup> calendar date. Vacation schedules are to be determined by the department head. Due consideration for individual employee convenience and seniority will be given, but the needs of the City in scheduling workloads will be the controlling factor. Vacation requests for the year should be submitted by January 31<sup>st</sup>. All requests submitted by January 31<sup>st</sup> shall be honored based on seniority and subject to operational demands. All requests for

vacation after January 31<sup>st</sup> will be on a first come basis. Vacation requests submitted after January 31<sup>st</sup>, for the three (3) days following the day of the request shall be answered at least twenty-four (24) hours prior to the beginning time of the time off. All other requests shall be answered within forty-eight (48) hours of the request. Once vacation time off is approved, it shall stand approved.

**Section 35.4.** Upon termination or separation from employment, an employee is entitled to compensation at his current rate of pay for any accrued and unused vacation leave.

**Section 35.5.** For purposes of the buy out provisions of Sections 4 of this article the phrase "accrued and unused vacation leave" refers to the accrual method set forth in Section 1 of Article 35.

**Section 35.6** In the case of the death of a City employee, the accrued and unused vacation leave shall be paid in accordance with appropriate Probate laws.

**Section 35.7** No charge shall be made against an employee's accumulated vacation leave for lawful holidays.

## **ARTICLE 36 HOLIDAYS**

**Section 36.1.** Sworn officers of the Division of Police will observe the following holidays, unless the Employee's presence on the job is deemed essential by the Chief:

- A. New Year's Day (January 1)
- B. President's Day (3rd Monday in February)
- C. Memorial Day
- D. Independence Day (July 4)
- E. Labor Day (1st Monday in September)
- F. Columbus Day (2nd Monday in October)
- G. Veterans Day (November 11)
- H. Thanksgiving Day (4th Thursday in November)
- I. Christmas Eve
- J. Christmas Day (December 25th)
- K. New Years' Eve

L. Three Floating Holidays

**Section 36.2.** When a bargaining unit member of the Division of Police is required to work and works, he/she will be paid at one and one-half (1-1/2) his/her regular rate of pay for those hours worked. The regular rate of pay will include shift differential if applicable. This pay will be in addition to the employee's Holiday pay. If any Holiday falls on any employee's scheduled day off, the Employee will be paid his/her regular pay even though he/she does not work.

**Section 36.3.** Floating holidays will consist of any three (3) days of the year which are selected by the employee. The floating holiday cannot be converted to cash and must be taken within the calendar year of their occurrence. Employees must schedule/notify his supervisor at least twenty-four (24) hours in advance of days the employees wish to use a floating holiday.

**Section 36.4.** When an employee is required to work overtime on the holidays listed in Section 36.1, the employee shall be compensated at a rate of two times (2X) his normal rate of pay. Beginning January 1, 2012, all captains and Non-Patrol Bureau personnel of the Division of Police will not be scheduled to work on holidays listed in Section 36.1 unless the employee's presence on the job is deemed essential by the Chief of Police.

Overtime is defined as being called into work when having the days scheduled off or required to work more than the normal shift.

**ARTICLE 37  
INSURANCE**

**Section 37.1. Medical Insurance** The Employer shall provide group medical insurance coverage for each employee and dependents in accordance with the schedule of benefits attached or one mutually agreed to by a majority of the members of the Health Care Committee (HCC) which shall be comprised if a representative of each bargaining unit and two (2) members appointed by the City Administration

Section 37.2. The Employer, Union and employees acknowledge the importance of and must engage in mutual efforts to control the cost of health insurance care. As premium rates increase over the course of this Agreement, the parties agree to meet and discuss the increase in premium cost for the purpose of discussing alternatives to maintain cost control, including, but not limited to alternate insurance coverage or alternate means of providing coverage. During the period of the Agreement the HCC shall meet regularly in order to monitor and control health care costs. The HCC with a majority vote of the Committee shall have the authority to modify the benefits, premium allocation, or premium during the life of this agreement to maintain health insurance coverage.

- A. Should the HCC fail to reach a majority vote on a solution the City may implement plan design modifications or premium increases no to exceed an 8% increase annually to the City plan which may be made to maintain coverage. The City agrees to provide the Union the opportunity to review and respond to the City's modifications to the City plan and the Union agrees to provide alternatives



measures to maintain, reduce or limit increases in premiums and/or costs of providing coverage. Among the measures the City may implement and the parties may discuss will be wellness programs, screening programs, tobacco use programs and well as other measures either the City or Union may identify in discussions regarding the City's plan for health insurance coverage.

The Union understands and agrees that any increase in the premium rates for health, medical, and related insurance premiums shall be a factor considered in the total economic proposals for successive negotiations. Any rate increases which may be implemented during the period of this Agreement shall also remain subject to the wage negotiations of subsequent Agreements.

It is further agreed and understood that during the term of this Agreement that individual carriers/providers may, through no fault of the City, Union, or employees cease coverage. Should such occur, any employee adversely affected shall be given the opportunity to enroll with an alternative carrier with the appropriate premium rates subject to the premium rate applied herein or to waive coverage and receive an appropriate pro-rata amount of the waiver of coverage payment.

The parties agree and understand that the health care coverage is subject to the Affordable Care Act (ACA). Should any provision of the City's plan conflict with the ACA, or other applicable laws or regulations, those provisions of the City plan will be immediately suspended and if a resolution cannot be determined and implemented within 60 days of the suspension such provisions of the City plan will no longer be in effect. In this event the City agrees, if the Union requests, to discuss the impact of those provisions of the City plan determined to be in conflict with the ACA or other laws or regulations. The Union agrees that it will present alternative measures with cost impact a consideration.

**Section 37.3** An employee who provides satisfactory proof of medical coverage under another employer sponsored insurance plan may waive both medical and dental coverage. An employee who waives coverage will receive for the calendar year a maximum of, the following:

Number of Employees Waiving Insurance	
Waiver of medical only:	\$3,000.00
Waiver of dental only:	\$ 150.00
Waiver of both medical and dental:	\$3.150.00

Payments will be made in December of the calendar year coverage is waived. Any waiver of coverage payments made to new hires or terminated employees will be prorated for the period of coverage.

**Section 37.4** City employees married to one another or children of City employees that are employed by the City, who waive coverage, but remain on the plan are not eligible for the waiver stipend.

**Section 37.5** The parties agree that contributions to the premiums for medical insurance will be paid as follows:

Year 1 (2017)

City share of premium: 88%  
Employee share of premium: 12%  
All employees' shares shall be pre-tax contributions.

Year 2 and 3 to be determined by the HHC (2018-2019)

City share of monthly premium %?  
Employee share of monthly premium %?  
All employees' shares shall be pre-tax contributions.

**Section 37.6 Spousal Coverage.** If the spouse of a City employee is employed and is eligible for employer sponsored health coverage with said employer, he/she must enroll in that particular health plan. City employees married to one another shall be covered under City double or family coverage. If the spouse cannot obtain coverage through his or her employer until a certain date or open enrollment period, the spouse will be covered under the City's plan until he or she can obtain coverage through his or her employer. The spouse must provide documentation to the City that he or she is eligible for coverage. The employee shall notify the Human Resources Department immediately (as soon as possible) and complete the required documentation when there is a change with his or hers spouses health care coverage. Failure to make such notification and complete the required paperwork will result in all monies owed to the City for the difference in premium to be deducted from the Employees paycheck until the balance is paid in full unless other arrangements have been made. Employees whose spouses have health insurance coverage through an employer, which coverage does not provide the same level of benefits as the City plan, are entitled to \$1077 in a flexible spending account or reduced premium, at the City's discretion. Spouses can also remain on the City's plan under secondary coverage.

**Section 37.7 Non-Pay Status.** An employee in a non-pay status due to their own health related condition or that of an immediate family member will be required to pay the employee's share of the monthly health insurance premium.

An employee in a non-pay status for reasons other than a health related condition, will be responsible for one hundred percent (100%) of the total health and life insurance premiums calculated in the following manner:

40-80 hours	=	one quarter of the total monthly premium
81-120 hours	=	one half of the total monthly premium
121 - 160 hours	=	three quarters of the total monthly premium
161+ plus hours	=	one hundred percent of the total monthly premium

**Section 37.8 Life Insurance.** Each full-time officer shall receive, at the expense of the City, a Thirty Thousand Dollar (\$30,000.00) term life insurance policy containing a double indemnity clause covering accidental death benefit.

**Section 37.9. Dental Insurance.** Employees may purchase dental coverage. This is subject to the availability from the insurance carrier. The cost to the employee will be deducted as a pre-tax contribution.

**Section 37.10** The Employer and Union agree to establish a joint Labor Management Committee to study medical insurance benefit plans.

**Section 37.11 Liability Insurance**

The City shall make a good faith attempt to purchase, at its expense, insurance coverage designed to provide protection to Bargaining Unit members against false arrest and false imprisonment at levels in existence on the date of the execution of this Agreement. This shall be in addition to the liability protection afforded employees under Ohio law.

**ARTICLE 38  
SICK LEAVE**

**Section 38.1. Crediting of Sick Leave.** Sick leave credit shall be earned by each employee whose wage is paid in full or in part by the City, at the rate of 4.6 hours for each eighty (80) hours of service in active pay status, but not during a leave of absence or layoff. Unused sick leave shall accumulate without limit.

**Section 38.2. Retention of Sick Leave.** Unconverted, previously accumulated sick leave of an employee who has been separated from the Public Service shall be placed to his credit upon reemployment in the Public Service provided that such reemployment takes place within ten (10) years of the date on which the employee was last terminated from Public Service.

**Section 38.3. Expiration of Sick Leave.** If illness disability continues beyond the time covered by earned sick leave, the employee may be granted an unpaid medical leave in accordance with the appropriate rules or policies of the City.

**Section 38.4. Charging of Sick Leave.** Sick leave will be charged in minimum units of one-half (1/2) hours. An employee will be charged for sick leave only for days upon which he would otherwise have been scheduled to work. Sick leave payment shall not exceed the normal scheduled workday or work week earnings except as outlined in Sections 13 and 14 of this Article.

**Section 38.5. Uses of Sick Leave.**

- A. Sick leave will be granted to an employee upon approval of the Chief for the following reasons:

1. Illness or injury of the employee or a member of his immediate family;
  2. Death of a relative other than a member of his immediate family, limited to three (3) working days;
  3. Medical, dental or optical examinations or treatment of the employee and which cannot be scheduled during non-working hours;
  4. If a member of the immediate family is afflicted with a contagious disease or requires the care and attendance of the employee or when through
  5. exposure to a contagious disease, the presence of the employee at his/her job would jeopardize the health of others;
  6. Pregnancy and/or childbirth and other conditions related thereto.
- B. "Immediate Family" shall mean an employee's spouse, parents, parent-in-law, children, stepchildren, or other relatives living in the same household.

**Section 38.6. Evidence Required for Sick Leave Usage.** The employer may require an employee to furnish a standard written signed statement explaining the nature of the illness to justify the use of sick leave. If the employee is under treatment by a physician the Employer may payment shall be made only once to any employee.

**Section 38.7. Notification by Employee.** When an employee is unable to report to work, he/she will notify his/her Immediate Supervisor and/or other designated person, no longer than ten (10) hours or less than one (1) hour prior to the time he/she is scheduled to work on each day of absence. Failure to so inform on each occasion, or at agreed intervals in the case of extended illness, will result in a loss of that day's pay. Continued abuse of this Section will give cause for dismissal from service with the City.

**Section 38.8. Physician Statement.** If medical attention is required, the employee will be required to furnish an original statement from a licensed physician notifying the Chief that the employee was unable to perform his/her duties. Where sick leave is requested to care for a member of the immediate family, the Chief may require an original physician's certificate to the effect that the presence of the employee is necessary to care for the ill person. Original doctor's certificates (not copies) for the employee and/or family member must be submitted to Human Resources within fourteen (14) calendar days after returning to work. For family members, the certificate must state that the employees' presence was required for the care, transportation, etc. of the immediate family member.

**Section 38.9. Physician Examination.** The Chief may require an employee to take an examination conducted by a licensed physician, to determine the employee's physical and mental capability to perform the duties of the employee's position. If found not qualified, the employee may be placed on sick leave or injury leave. The cost of such examination will be paid by the City.

**Section 38.10. Sick Leave Prior to Retirement.** Sick leave will not be taken by any employee immediately preceding pension or disability retirement, unless such sick leave is unanimously approved by the office of the Division of Human Resources, the Director of Public Safety, and the Mayor and the City Auditor, as having resulted from disability incurred in the line of duty.

**Section 38.11. Administration of Sick Leave.** The provisions of this Section shall be uniformly administered throughout the Division, and it will be the responsibility of the Office of the Division of Personnel to implement this Section to accomplish such purpose.

**Section 38.12. Conversion of Unused Sick Leave at Retirement** Employees covered under this Agreement who retire from the City from active service under a State of Ohio pension system shall be entitled to convert accrued but unused sick leave to a cash payment on the following basis:

Employees may receive, after completion of ten (10) years of continuous service with the City, a cash payment in the amount of one (1) hour's pay for each two (2) hours of accrued, but unused sick leave at their time of retirement up to \$15,000.00. Such payment shall be made only once to any employee.

**Section 38.13. Conversion of Sick Time.**

Each member who has accrued more than 480 hours of sick time may, in November of each year, convert sick time to cash at the rate of three hours pay for each four of sick leave require a certificate stating the nature of the illness from a licensed physician to justify the use of sick leave. Falsification of either a written signed statement or a physician's certificate will be grounds for disciplinary action including dismissal.

<u>Accrual of sick leave used during previous 12 months</u>	<u>Number of hours which may be converted at 75%</u>
NO USAGE	120 hours
1 hour to 19 hours	100 hours
20 hours to 49 hours	80 hours
50 hours or more	0 hours

Any amounts cashed in shall be added to the employee's normal paycheck. This amount shall be paid the first pay period of December.

**Section 38.14. Payment upon Death.**

When a member dies in the line of duty, all unused sick leave shall be paid in a lump sum to the surviving spouse in accordance with the appropriate probate laws, if applicable, or, if there is no spouse, to the estate of the deceased. When a member dies while in paid status with the City, but other than in the line of duty, sick leave shall be paid in a lump sum to the surviving spouse or, if there is no spouse, to the estate of the deceased according to the limitations of the retirement provisions contained in 38.12, above.

**Section 38.15. Abuse.** Employees intentionally failing to comply with sick leave rules and regulations shall not be paid. Application for sick leave with intent to defraud will result in dismissal and refund of salary wage paid.

All employees are expected to maintain a satisfactory record of attendance. Employees who use excessive amounts of sick leave, abuse sick leave, or demonstrate a pattern of abuse shall be subject to appropriate disciplinary action. Employees who have 4 (four) incidents of unscheduled call-offs without a Doctor's slip in a rolling 6 (six) month period will meet and be counseled by the immediate supervisor. During this counseling session the employee will be advised that they must produce a physician's statement for all succeeding incidents in the next 12 (twelve) months or the employee will not be paid for the period of absence. While on sick leave, an employee is expected to be at home unless on a medical-related errand or physician's appointment.

**Section 38.16. False Claims**

An Employee who is guilty of submitting a false claim for benefits is subject to disciplinary action by the City and/or the withholding of benefit payments. An Employee who is on injury or sick leave, and at the same time is working for another employer is deemed prima facie to have made such a false claim for benefits unless prior to such work for another he obtains from his appointing authority written approval to do so.

**ARTICLE 39  
INJURY LEAVE**

**Section 39.1.** Any employee who is injured while on duty or has contracted a disease while on duty will be entitled to receive his/her normal pay for 1040 hours for each injury or disease contracted while on duty. To be eligible the employee does not have to be off the entire 1040 hours from the date of his injury.

The City's decision to grant or deny injury leave will be made within ten (10) calendar days from the date the completed injury leave request form is submitted by the employee to the Human Resources Department, unless the parties do not have sufficient information to render a decision or the parties agree in writing to an extension.

If injury leave is granted, then the employee will be placed on injury leave for the time specified by the attending physician in which the employee is unable to perform his/her work duties. If an employee is not granted injury leave or if sufficient information does not exist to warrant a determination, the employee may utilize approved sick leave, vacation leave, or compensatory time. If injury leave is initially denied and later approved and an employee has utilized sick or other leaves, the employee shall have the leave balances restored. If an employee denied injury leave has applied for and been granted/approved for workers' compensation temporary total disability benefits based upon the injury the employee shall have his leave balances reaccredited.

**Section 39.2.** To be placed on injury leave and receive the benefits set forth in this Article, an employee has the burden of proving that any disease or injury suffered by him/her was incurred in the course of or arising out of his/her employment with the City. Employees must report any injury to his/her immediate supervisor immediately upon the occurrence of the injury (or, if physically unable to do so, as soon as the employee is capable). The employee must file a claim with the Bureau of Workers' Compensation (BWC) and said claim must be certified by the BWC. If injury leave is initially granted by the City and at a later time the BWC denies certification of the claim, the injury leave will then be disallowed and all injury leave wages paid during the period of injury leave will be deducted from the employee's sick leave, vacation leave or compensatory leave balances.

**Section 39.3.** When an employee is absent for more than 1040 hours, the employee may receive payment from the Bureau of Workers' Compensation in accordance with the applicable rules and regulations. Under this provision, the employee will continue to accrue sick leave and vacation time for a maximum period of one (1) year at the rate of 2/3 the regular rate when the employee elects to receive Workers' Compensation benefits.

**Section 39.4.** Injury leave shall be denied the employee where he/she has either failed to prove his/her disease or injury is occupationally connected or was incurred in the course and arising out of his/her employment with the City, has failed to immediately report such injury to his/her immediate supervisor or his/her claim has been denied by the BWC as not being work related. The employee has the burden of proving that any disease or injury suffered by him/her was incurred in the course of or arising out of his/her employment with the City.

**Section 39.5.** Any employee shall be entitled to credit for service time accumulated during injury leave in determining eligibility for salary step advancement and other benefits where tenure is a factor.

**Section 39.6.** Any employee otherwise qualified for injury leave or sick leave based on the physician's determination to be capable of performing modified or restricted duties at any time after any injury may be assigned to perform such duties in lieu of being placed on injury leave or Workers' Compensation. An employee who objects to such assignment shall have the

right to an examination by a physician appointed and paid for by the Employer, and that physician's determination of the employee's capacity to perform such modified or restricted duties shall be final as to the employee's eligibility for injury leave. Modified duty assignments may be made within the Police Division where appropriate modified duty is available. An employee being released by the attending physician to modified duty will be placed on injury leave if the Division Chief determines modified duty within the Division is unavailable.

**Section 39.7.** Any employee who has returned to work in a light duty or restricted duty status before the usage of 1040 hours injury leave time may mark-off due to complications of an old injury on injury leave. Any employee, who has returned to work to full duty status and has not used the 1040 hours injury leave, may mark off for future medical treatment on the old injury. Leave under this Article shall not extend more than three (3) years from the date of the injury or contracting of the disease.

**ARTICLE 40**  
**LEAVE OF ABSENCE**

**Section 40.1. Short Term Military Leave.**

To qualify for such leave the employee must first show his duly promulgated orders to his immediate supervisor prior to reporting for required training or required duty.

If the employee qualifies for required short term military leave, then the employee will be paid his regular pay, not to exceed two hundred (200) hours in a calendar year from the City. For this purpose military pay is defined as being only base pay plus longevity pay, and will not include allowance for travel, subsistence or quarters. In order to receive the difference in pay, the employee must first complete a military leave affidavit to be furnished in form by the Human Resource Department. Such affidavit shall be submitted to the Chief of Police. For the purpose of computing vacation or sick leave such short-term military leave will count as full service with the City.

**Section 40.2. Extended Military Leave.**

The City will follow and conform to all state and federal laws which pertain to military leave and the rights of military personnel.

Application for return from leave must be made by the employee to the City Civil Service commission within sixty (60) days after release from active service.

Employees on extended military leave will receive retirement credit for the time spent in military service so long as he or she makes his application for return from leave within sixty (60) days after release from active service. Replacements for employees leaving on extended military leave will be hired with permanent status, but are subject to layoff when the employee on military leave returns. When an employee who has been on extended military leave returns, he or she will receive any wage adjustment to step that would be due as though the employee has been actively on the payroll. Vacation and sick leave will not accumulate during extended military leave.

Any event or situation not covered by federal or state statute regarding and employee who is on military leave, a MOU will be created to resolve the situation for the employee on military leave.

**Section 40.3. Leave of Absence**

Leave without pay for employees of the Police Division may be granted by the Chief upon written request from the employee. Such leave without pay will not in any case exceed one hundred eighty (180) days. During the period of such leave the employee will not accumulate vacation or sick leave, nor will the employee accrue seniority rights. The employee's insurance benefits will remain in effect if leave is granted for medical reasons. If leave is granted for personal reasons, the employee will be responsible for their own insurance premium under the City's health plan.



**Section 40.4**     **Family Medical Leave**

An employee, subject to the eligibility requirements of the Family and Medical Leave Act, shall be granted or placed on up to twelve (12) weeks of leave of absence per year for one or more of the following reasons:

1.        The birth of a son or daughter to the employee and in order to take care of such son or daughter.
2.        The placement of a son or daughter with the employee for adoption or foster care.
3.        To care for a spouse, son, daughter, or parent of the employee if such spouse, son, daughter or parent has a serious health condition.
4.        Because of a serious health condition that makes the employee unable to perform the functions of his/her position.

The City shall comply with all Federal Laws in regard to the Family and Medical Leave Act (FMLA). Employees may be required, in accordance with the FMLA, to substitute all or part of any accrued paid leave time such as sick leave or vacation for all or part of the twelve (12) weeks.

The provisions of this Article shall be uniformly administered throughout the City and it shall be responsibility of the Officer of Director of Human Resources to implement this Article to accomplish such purpose.

**Section 40.5**     **Bereavement Leave**

The Chief will grant three (3) working days of paid leave for attending the funeral/memorial service of an employee's spouse, parents, grandparents, parent-in-laws, children, stepchildren, employee's brothers, sister, half-brothers, half-sisters or any other relatives living in the same household or other person who stands in place of a parent.

The Chief will grant two (2) working days of paid leave for attending the funeral/memorial service of an employee's grandparents-in-law, grandchildren, brothers-in-law, sisters-in-law, spouse's siblings, and siblings' spouses.

Bereavement leave shall be paid to all employees provided the employees notifies the officer in charge on duty in advance of the leave and identifies the relationship of the deceased. Bereavement leave does not have to be taken in consecutive days, but should be used within seven (7) days of the first use.

Bereavement leave in excess of three (3) working days shall be approved in advance by the Chief in writing and shall be charged to the Employee's accrued sick leave, comp time, vacation, or counted as leave without pay. The use of sick leave for bereavement leave shall not

count against any bargaining unit member under Article 38, Section 38.13 Conversion of Sick Time.

Section 40.6     Religious Leave

Employees of the Division of Police may be granted leave without pay to attend religious observances so long as request is approved in advance by the Chief and Director of Public Safety. Religious observances are defined as those special observances (not to include the ordinary weekly observances) which morally require an employee's attendance at his church, synagogue, or other place of worship. Religious observance leave shall be limited to the actual hours necessary to attend the observance.

**ARTICLE 41**  
**MISCELLANEOUS**

**Section 41.1.**     **Composition.**     The Police Division of the City shall be composed of a Chief of Police and such other officers and personnel as Council shall, from time to time, determine.

**Section 41.2.**     **Duties Generally.**     The duties of the members of the Police Division shall be such as may be prescribed from time to time by either the Chief of Police or the Director of Public Safety.

**Section 41.3.**     **Vehicles.**     There will be no take home vehicles provided by the City or the Division of Police, except at the discretion of the Chief of Police. Employees coming to court on official business or police headquarters on official business in their private vehicle will have parking tickets placed on the dismissal docket through the chain of command. An employee found guilty of serious misconduct in the use of a departmental vehicle may have the vehicle use removed through the disciplinary process.

**Section 41.4.**     **Duty Weapon Purchase**     Upon a bargaining unit member completing at least 15 years of police service with the City of Newark (including any military or service buy back as defined by the Police and Fire Pension Board) or a disability retirement due to a work related injury (other than psychological), that bargaining unit member upon leaving employment of the City of Newark shall be permitted to purchase his/her regular duty weapon and their Division-issued badge for the sum of One Dollar (\$1.00). Any Bargaining Unit Member who purchased his badge in the 2016 badge change shall not be required to repurchase it at separation.

**Section 41.5.**     **Personal Days.**

1. Each employee is entitled to two (2) PAID personal days a year. These days do not have to be pre-approved, the employee only needs to call his/her Supervisor and advise the employee is taking a personal day.
2. If an employee elects to take a personal day on a Holiday the employee will only be compensated at their regular rate of pay for that shift. Holiday pay, as spelled out in Article 36 Section 36.2 will not be permitted when using a personal day on a Holiday.

**Section 41.6 Payout of Vacation, Sick Leave and Compensatory Time.**

All Bargaining Unit Members will receive a single payout in accordance to IRS regulations of accumulated compensatory time, vacation, and sick leave at the time of retirement.

**ARTICLE 42  
TUITION REIMBURSEMENT**

**Section 42.1.**

All full-time employees with one or more years of continuous active service shall be eligible for 100% reimbursement up to an annual (designated fiscal year) individual aggregate amount of Thirty five hundred dollars (\$3,500.00) for undergraduate courses taken towards an Associates or Bachelors and forty five hundred dollars (\$4500.00) for graduate courses taken towards a masters or other graduate degree. Any employee intending to use tuition reimbursement shall submit a letter of intent with estimated cost for the entire year. Such letter of intent shall be submitted by January 30<sup>th</sup>. All course of instruction, must be pre-approved by the Chief of Police, Safety Director, and Human Resource Director and voluntarily undertaken by the employee. The annual aggregate liability to the City both Blue and Gold CBA's will not exceed twenty-five thousand dollars (\$25,000) per fiscal year combined.

Employees will submit the request per quarter, semester or other module, established by the institution, in advance and include the full amount (tuition and estimated cost of allowed expenses requested). Upon approval, a purchase order will be issued encumbering the money. The availability of funds is on a first come, first served basis and there is no guarantee of approval if the total amount described in paragraph one is exhausted. A report will be published monthly by the division Fiscal Manager and distributed to the Chief, Officer Coordinator, and FOP bulletin board describing the availability of funds.

Employees will notify the Office of the Chief, in writing, within seven (7) calendar days if they withdraw from a course, fail the course or fail to obtain a C or above, the course is cancelled or in any other event in which reimbursement will not be permitted. The monies encumbered can then be unencumbered and made available to other employees. Employees failing to make a proper notification may have their privileges under this Article suspended for a period of 6 months.

Law enforcement classes taken pursuant to paragraph "C" and not part of a degree program are limited to two courses per year, at a cost not to exceed one thousand dollars (\$ 1000.00). These funds are subject to availability of funds listed in paragraph one. These courses are subject to the approval of the Chief of Police with regards to manpower and operational needs.

The tuition reimbursement program shall be subject to the following conditions:

- A. All courses applied towards a degree must be taken during other than scheduled working hours. All scheduled hours for courses of instruction must be filed with the Chief of

Police or his designee. All courses are subject to the approval of the Chief of Police. There must be a correlation between the member's duties and responsibilities and the courses taken or the degree program pursued. Any situation which, in the discretion of the Chief of Police, would require a member's presence on the job shall take complete and final precedence over any time scheduled for courses.

- B. Any financial assistance from any governmental or private agency available to a member, whether or not applied for and regardless of when such assistance may have been received, shall be deducted in the entire amount from the tuition reimbursement the member is eligible for under this section. If a member's tuition is fully covered by another governmental or private agency, then the member is not entitled to any payment from the City.
- C. Employees seeking authorization of a tuition reimbursement must first submit to the department head for review, all necessary information pertaining to the proposed course degree to be pursued, the educational institution and the employee's best estimate of courses to be taken.

Courses must be taken through accredited colleges, universities, technical and business institutes or through their established extension centers, and Law Enforcement Academies or courses, which must first be approved by the Chief of Police, Safety Director and the Human Resources Director.

- D. Reimbursement for tuition will be made when the member satisfactorily completes (attains at least a grade of "C" or its equivalent for undergraduate work and a grade of at least "B" or its equivalent for graduate work) a course and presents an official certificate or its equivalent and a receipt of payment or copy of the unpaid bill from the institution confirming completion of the approved course.
- E. Reimbursement for required books, instructional materials, and fees other than penalty fees for any course outlined in paragraph D shall be at 100%. Reimbursement for books and instructional materials which are strongly advised, though not required, shall be at 25%. There shall be no reimbursement for meals, travel expenses, housing, or extra-curricular activities.

Any reimbursement under this section counts towards aggregate amounts allowed in Section 1.

- F. Department equipment will be made available for departmentally sponsored classes or tuition-reimbursement approved classes, with the approval of the Chief of Police.
- G. Any employee participating in the tuition reimbursement program who resigns (except resignation due to disability), retires (except retirement due to disability) or is discharged for cause must repay the tuition reimbursement paid by the City for courses taken less than two years prior to the date of termination or discharge. If necessary, this amount will be deducted from the employee's terminal leave pay or final paycheck.

**ARTICLE 43  
EMPLOYEE DRUG TESTING**

See Newark City Drug and Alcohol Policy

**ARTICLE 44  
HEALTH AND PHYSICAL FITNESS INCENTIVE**

**Section 44.1. Scope**

The City and the FOP/OLC recognize and agree that the maintenance of good health and physical fitness is beneficial for the efficiency and safety of all bargaining unit members. Therefore, a program has been developed that encourages acceptable levels of physical fitness.

The program is voluntary; however, all bargaining unit members are strongly encouraged to actively participate in the program and improve their level of health and fitness.

**Section 44.2. Program Design**

Each bargaining unit member will have one (1) opportunity to participate in the Physical Fitness Testing (PFT) program each year, to be scheduled on an overlap Wednesday as set by the Chief.

**Section 44.3. Physical Fitness Test (PFT)**

The Physical Fitness Test will be administered by Chief of Police or his designee mutually agreed to by the City and the FOP/OLC and will consist of the following phases:

- A. Muscular Endurance (Core Body) – One (1) Minute Sit Up.  
On the “Get Ready” command the member assumes the starting position by lying flat on their back with knees bent at forty-five (45) degrees. Feet may be together or up to twelve (12) inches apart, resting on the ground and may be stabilized by a partner holding the ankles with the hands only. The member’s fingers must be interlocked behind the neck or head or the members’ arms may be crossed on their chests. On the “Begin” command, the member starts raising the upper body to the up position with elbow touching knees. The member lowers the body until the upper portion of the back (should blades) touches the mat. The head, hands, arms, and elbows don’t have to touch the ground. The up position is the only authorized rest position. Failing to reach the up position, failing to keep the fingers locked behind the neck or head, arching or bowing the back and raising the buttocks off the ground to raise the upper body, or allowing feet to leave the floor will result in incorrect movements. Incorrect movements will not be counted. Each member has sixty (60) seconds to complete as many correct sits as they can.

- B.** Muscular Endurance (Upper Body) – Maximum Push Ups.  
On the “Get Ready” command, the member will assume the front-leaning rest position (push-up) with the arms straight, elbows locked, hands about shoulder width apart, and palms placed on the floor. The feet may be together or up to twelve (12) inches apart. The body should be essentially straight when viewed from the side, from the shoulders to the ankles. On the “Begin” command, the member starts the push-up by bending the elbows and lowering the entire body until the chest touches the fist of the Chief’s designee (the upper arms should be parallel to the ground at this point). The member returns to the starting position by raising the entire body until the arms are fully extended. The member may rest in the up (elbows locked) position only. The body must remain in a generally straight line and as a single unit for the entire repetition. Failure to keep the body straight or to properly lower the entire body until the chest touches the Chief’s designee fist or allowing any part of the body other than the hands or feet to touch the ground results in disqualification. Incorrect movements will not be counted. Each member has sixty (60) seconds to complete as many push-ups as they can.
- C.** Aerobic Capacity (Cardio Respiratory) – 1.5 Mile Run  
At the start, all members will be lined up behind the starting line, on a flat, level course. Members are instructed to complete the 1.5 mile run and to listen to their finish time. On the command “GO”, the timing clock will be started and the members will begin running at their own pace. The Chief’s designee timing the event will begin calling off the time in minutes and seconds as the members approach the finish line. Each member’s time will be recorded after they pass through the finish line.

**Section 44.4. Incentive Program**

Members who meet or exceed the Cooper Institute Physical Fitness Standard (40<sup>th</sup> percentile) are eligible to participate in the Incentive Program. The Incentive Program has two (2) components:

- A.** Compensatory Time Incentive. Members will receive incentives as follows:
1. Members who meet or exceed the Cooper Institute Physical Fitness Standard (40<sup>th</sup> percentile) will receive four (4) hours of compensatory time for each phase achieved. Members must attempt all three phases.
  2. Members who meet or exceed the Cooper Institute Physical Fitness Standard (60<sup>th</sup> percentile) in all three phases will receive an additional four (4) hours of compensatory time (total of 16 hours).
  3. Members who meet or exceed the Cooper Institute Physical Fitness Standard (75<sup>th</sup> percentile) in all three phases will receive an additional four (4) hours of compensatory time (total of 20 hours).
- B.** Incentive Recognition Awards. Members who meet or exceed the Cooper Institute Standard (40<sup>th</sup> percentile) in all phases of the PFT will be eligible to receive and wear the Physical Fitness Award Uniform Ribbon. Members receiving the incentive awards set forth above shall be eligible to wear said

awards until the member fails to participate in the program the following year, or fails to meet the standards in all phases during the PFT in the following year.

**Cooper Institute Percentile Standards**

<b>Male</b>					
<b>75th Percentile</b>	<b>M21-29</b>	<b>M30-39</b>	<b>M40-49</b>	<b>M50-59</b>	<b>M60+</b>
1 minute sit-ups	46	42	37	33	28
1 minute push-ups	44	36	29	24	22
1.5 mile run	10:34	10:59	11:32	12:37	13:58
<b>60th Percentile</b>	<b>M21-29</b>	<b>M30-39</b>	<b>M40-49</b>	<b>M50-59</b>	<b>M60+</b>
1 minute sit-ups	42	39	34	28	22
1 minute push-ups	37	30	24	19	18
1.5 mile run	11:27	11:49	12:25	13:53	15:20
<b>40th Percentile</b>	<b>M21-29</b>	<b>M30-39</b>	<b>M40-49</b>	<b>M50-59</b>	<b>M60+</b>
1 minute sit-ups	38	35	29	24	19
1 minute push-ups	29	24	18	13	10
1.5 mile run	12:29	12:53	13:50	15:14	17:19
<b>Female</b>					
<b>75th Percentile</b>	<b>F21-29</b>	<b>F30-39</b>	<b>F40-49</b>	<b>F50-59</b>	<b>F60+</b>
1 minute sit-ups	42	33	28	22	15
1 minute push-ups	27	19	15		
1.5 mile run	12:07	13:08	13:58	15:47	17:34
<b>60th Percentile</b>	<b>F21-29</b>	<b>F30-39</b>	<b>F40-49</b>	<b>F50-59</b>	<b>F60+</b>
1 minute sit-ups	38	29	24	20	11
1 minute push-ups	21	15	13		
1.5 mile run	13:25	14:33	15:17	17:19	18:52
<b>40th Percentile</b>	<b>F21-29</b>	<b>F30-39</b>	<b>F40-49</b>	<b>F50-59</b>	<b>F60+</b>
1 minute sit-ups	32	25	20	14	6
1 minute push-ups	15	11	9	7	
1.5 mile run	15:05	15:56	17:11	19:10	20:55

The procedure and order for testing is recommended as follows:

1. Perform the One Minute Sit Up test and rest for 5 to 10 minutes.
2. Perform the Maximum Push Up test, then rest for 5 to 15 minutes.
3. Do cardio-warm up for 2 to 3 minutes, then perform the 1.5 mile run and cardio-cool down for 5 minutes.

**ARTICLE 45**  
**SPECIAL POLICE DUTY/EXTRA PAY JOBS**

**Section 45.1. Purpose**

- A. To outline the guidelines and procedures for the implementation of Special Police Duty/Extra Pay Jobs

**Section 45.2. Requirements**

- A. The Newark Division of Police, may upon request and at the discretion of the Chief of Police, provide officers to perform Special Police Duty/Extra Pay Jobs, within the jurisdictional boundaries of the City of Newark, Ohio, in return for monetary compensation to the bargaining unit members as agreed by the employing agency entity. Special Police Duty/Extra Pay Jobs refers to the hiring of a Police Officer through the Newark Division of Police for the purpose of utilizing the Police Officer's official police authority for a security purpose. Security may be for public or private entities, government, government subsidized organizations, public and private schools, public or private clubs, public or private organizations, public or private businesses, and individuals.

**Section 45.3. Procedure**

- A. There are three (3) types of Special Police Duty/Extra Pay Jobs:
  - 1. Continuous or ongoing, which is scheduled on a continuous basis
  - 2. Limited, which is seasonal
  - 3. Special limited, which are requested for short term or single occasions
- B. Bargaining Unit Members are eligible to work special Police Duty/Extra Pay Jobs Only Off-duty members are permitted to work Special Police Duty-Extra Pay Jobs. A member must mark off-duty on compensatory time or vacation time to work special Police Duty/Extra Pay Jobs, if he/she is not in an off-duty status. The use of sick time is not permitted to be used to leave duty to work special police Duty/Extra Pay Jobs. The duty Sergeant or officer in charge will determine if street strength is adequate and in compliance with Article 31 (Minimum Patrol Strength) of the CBA prior to letting an officer off to work Special Police Duty/Extra Pay jobs.
- C. The Chief of Police will designate personnel to create and/or schedule all requests for special Police Duty/Extra Pay Jobs. The Chief's designee will hold a sign up every six (6) months, to coincide with the Patrol Division sign-up, for all interested and eligible officers who want to work Special Police Duty/Extra Pay Jobs that are assigned for a continuous or ongoing basis. The Chief's designee will contact bargaining unit members by seniority to sign up for special Police Duty Extra Pay Jobs. This notification will be done by contacting the bargaining unit member first by a text message to a mobile phone designated by the employee and then by calling an alternate phone number that is voluntarily



supplied by the member. If no contact is made with the bargaining unit member by the ways listed, the Chief's designee shall move on to the next bargaining unit member by seniority. A detailed record of notifications will be kept by the Chief's designee in case of grievances. If a bargaining unit member makes contact after they have been skipped because they did not respond to any of the ways they were attempted to be contacted; they will be allowed to sign up for the jobs that are available at that time when they do make contact. They will not be allowed to bump another bargaining unit member out of a job that has less seniority and has already signed up for a job. In order to sign up, the bargaining unit member may either respond to the station, on their own time, or have the Chief's designee sign the members name and SSN or employee number to the requested jobs. The members first and last name must appear in the book along with the correct SSN or employee number to be a valid sign up. The members name and SSN or employee number must be in the member's own handwriting or the handwriting of the Chief's designee to be a valid sign up. If these criteria are not met, the name can be crossed out by the Chief's designee and the job will be considered to be open. Second (2<sup>nd</sup>) sign ups, third (3<sup>rd</sup>) sign ups, and so forth will be conducted in the same manner.

- D. For Special Police Duty/Extra Pay Jobs that are limited (seasonal) such as, but not limited to, NHS Football and basketball games and NCHS Football games, and for Special Police Duty Extra Pay Jobs that are special limited (requested for short term or single occasions) such as, but not limited, to Midland Theatre, high school playoff football and basketball games, high school graduations and high school proms and dances, a rotation list will be constructed by rank and seniority. Members will be contacted the same way as outlined in Article 47.3 (above). A rotation list means you go down the list by seniority until the job(s) is/are filled. The next time a job becomes available you pick up where you stopped on the list. Every attempt will be made by the Chief's designee to ensure that jobs are offered fairly to all members on the list. Any member that requests to be placed on the rotation list, after the first of the year, will be placed on the list by seniority (hire date). As a continued practice School Resource Officers assigned to a specific school will be permitted to be one of the assigned officers to any school related event at their assigned school that includes but is not limited to sporting events, dances, and other events that involve the student body. They will be paid according to the parameters set forth in Article 47 of the CBA. If there is a question about whether an event qualifies under this article, the Chief of Police will make the final decision after input from union representatives.
- E. If a bargaining unit member is assigned to supervise or oversee the Chief's designee, that member will not be afforded any special privileges as it pertains to Special Duty Police/Extra Pay Jobs. Nor will any other subordinate members be afforded any special privileges because their supervisor is associated with Special Police Duty/Extra Pay Jobs.
- F. Any person, organization, agency, etc... desiring to hire a member for special Police Duty/Extra Pay Jobs should be directed to contact the Chief's designee. The information collected should contain:

1. Location,
  2. Contact person with phone number,
  3. Number of officers requested,
  4. Job function,
  5. Uniform or plain clothes,
  6. Cruiser needed or not (extra cost at current rate)
- G. All bargaining unit members working a special Police Duty/Extra Pay Job will be paid a minimum of three (3) hours at the current rate set by the Chief of Police. If four (4) or more officers are requested, a Supervisor is to be assigned as one (1) of the working officers at a minimum of three (3) hours.
- H. Each eligible member that has properly signed up for a job and worked the job will be paid individually by the person, organization, agency, etc...that requested the officer(s). The Chief's designee will invoice the person, organization, agency, etc... requesting the officer unless the officer is paid upon completion of the Special Police Duty/Extra Pay Job. It is the members' responsibility to notify the Chief's designee if they worked a job that another member was signed up to work. This will ensure that the invoice is correct when the Chief's designee sends the invoice to be paid. All eligible bargaining unit members are entitled to sign up for one (1) of each available job per sign up. If officers trade jobs amongst themselves, it is the member's responsibility to inform the Chief's designee of the trade(s). The member's name that appears in the book will ultimately be responsible to ensure that the job is worked. If a job is not worked, the member's name that appears in the book will be responsible. If members made a trade and did not inform the Chief's designee, the name that appears in the book will be held accountable and could possibly face disciplinary action for the job not being worked.
- I. Complaints that are minor in nature on bargaining unit members received by the Chief's designee, concerning Special Police Duty Extra Pay Jobs, will be forwarded to the member's immediate supervisor. Proper procedure as outline in Article 15 will be followed and the member could possibly be subject to progressive discipline. Complaints that are serious in nature should be forwarded to the Chief of Police. Any suspected violations of this Article will be forwarded to the member's immediate supervisor for investigation. The member(s) involved in the suspected violations(s) of this Article will be required to provide a written statement, with proper Garrity warning, concerning the alleged incident.
- J. The duty obligations of a bargaining unit member working any Special Police Duty/Extra Pay Job assignments are as follows:
1. The primary duty obligation of a member assigned to a job is to his Oath of Office as a police officer and the Newark Division of Police
  2. Second comes the duty obligation to the person, organization, agency, etc. requesting the officer.

3. Upon accepting a voluntary special police Duty/Extra Pay Job, the accepting member obligates himself/herself to carry out the assigned duties.
  4. Newark Division of Police supervisory authority extends to the member engaged in a special Police Duty/Extra Pay Job.
- K. When a Newark Division of Police member is directly en route to a special Policy Duty/Extra Pay Job assignment, directly returning home, or otherwise, from a special Police Duty/Extra Pay Job assignment, or while actively on a special Police Duty/Extra Pay Job assignment, the member is subject to the directives, policy and procedure, and other orders issued by the Newark Police Department. The members are also covered by the Newark Police Department and the city of Newark the same as if they were “on duty”.
- L. The “original” special Police Duty/Extra Job Pay book will remain in the control of the Chief’s designee. The Chief’s designee will place an updated “copy” on the intranet as needed. Members must make all sign ups and changes through the Chief’s designee. The “original book” will serve as the “official book” when there are discrepancies. The “copy” is just that, a copy. Any changes members make on their own to that book are unofficial and will not have any weight whatsoever when it come to discrepancies.
- M. If a member is ever suspended from working special Police duty/Extra Pay Jobs for any amount of time, the affected member may sign up for special Police Duty/Extra Pay Jobs that are scheduled past the ending date of the members suspension.

**Section 45.4. Grievances**

It is understood by all members that the City of Newark does not pay the wages of Special Police Duty/Extra Pay Jobs. If proper procedures are alleged not being followed, the proper remedy requested by the member should be to be placed at the top of the list and offered the next available job, similar job, or same job. The remedy requested cannot involve the payment of any wages by the City or the prospective employer.

**ARTICLE 46  
DURATION OF AGREEMENT**

**Section 46.1.** This Agreement shall be effective as of January 1, 2017, and shall remain in full force and effect until December 31, 2019.

**Section 46.2.** If either party desires to modify, amend or terminate this Agreement, it shall give written notice of such intent no earlier than ninety (90) calendar days prior to the expiration date, nor later than forty-five (45) calendar days prior to the expiration date of this Agreement. The parties shall commence negotiations within two (2) calendar weeks upon receiving notice of intent.

2017-2019 Agreement Between City of Newark and Licking County FOP, Lodge #127- GOLD

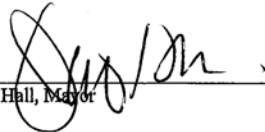
**Section 46.3.** The parties acknowledge that during the negotiations which resulted in this Agreement, each had the unlimited right to make demands and proposals on any subject matter not removed by law from the area of collective bargaining, and the understandings and agreement arrived at by the parties after the exercise of that right and opportunity are set forth in this Agreement. Therefore, the employer and the F.O.P. for the life of this Agreement, each voluntarily and unequivocally waives the right, and each agree that the other shall not be obligated to bargain collectively or individually with respect to any subject or matter referred to or covered in this Agreement, or with respect to any subject or matter not specifically referred to or covered in this Agreement, even though such subjects or matters may not have been within the knowledge of either or both parties at the time they negotiated or signed this Agreement except as required by Ohio law.

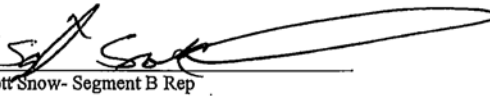
SIGNATURES


In witness whereof, the parties hereto have set their hands to this Agreement, this 7<sup>TH</sup> day of JUNE, 2017.

FOR THE CITY OF NEWARK, OHIO

FOR THE LICKING COUNTY FRATERNAL ORDER OF POLICE LODGE #127/OLC (NEWARK DIVISION OF POLICE)

  
\_\_\_\_\_  
Jeff Hall, Mayor


  
\_\_\_\_\_  
Scott Snow- Segment B Rep

  
\_\_\_\_\_  
Steven Baum  
Safety Director

  
\_\_\_\_\_  
John Brnjic- Segment B Rep.

  
\_\_\_\_\_  
Barry Connell  
Chief of Police

  
\_\_\_\_\_  
Chuck Choate- FOP/Ohio Labor Council Inc.

  
\_\_\_\_\_  
Mike Buskirk  
Director of Human Resources

\_\_\_\_\_

**ADDENDUM A  
DEFINITIONS**

For the purpose of this Agreement, the following definitions shall apply:

- A. "Bargaining Agent" means that group of employees or the organization which has been recognized as the official representative for the employees in the bargaining unit;
- B. "Bargaining Unit" means that group of positions and the employees occupying those positions which have been recognized by S.E.R.B. as being appropriate for bargaining purposes and representation by the recognized bargaining agent;
- C. "Chief" means the Chief or Acting Chief of Police for the City of Newark, Ohio, in charge of the Newark Police Division;
- D. "Chief's Designee" A person directly appointed by the Chief for a specific situation or function.
- E. "Commission" means the Civil Service Commission;
- F. "Emergency" means any situation which is declared by the Mayor of the City of Newark, Ohio, which jeopardizes the public health, safety, and the welfare of the City, its property, and/or its citizens, and requires in the opinion of said Mayor, the alterations of scheduled work hours, shifts, and/or personnel assignments;
- G. "Employee" means all persons occupying those positions which have been determined by this Agreement as being appropriately within the bargaining unit;
- H. "Employer" means the City of Newark, Ohio;
- I. "F.O.P." means those members of the Licking County Fraternal Order of Police, Inc. Lodge #127, who are employees of the City of Newark, Ohio;
- J. "Lodge" means those members collectively of the Licking County Fraternal Order of Police, Inc. Lodge #127, who are employees of the City of Newark, Ohio;
- K. "Materials (Political)" means those materials (flyers, posters, newsletters, buttons, etc.) intended to influence any voter in any City, County, State, or Federal Election. Materials involving internal departmental or job related elections will not be construed as political material;
- L. "Negotiation Team" means those members of the F.O.P. duly elected or selected to represent the F.O.P. in negotiations with the Employer;
- M. "Non-Compensatory Time" means paid time other than sick leave, vacation, or accrued compensatory time;

N. "Reprimand (Oral)" means a verbal warning issued in which the supervisor noted in the employee's official personnel file the date and time and reason(s) the employee was verbally warned;

O. "Reprimand (Written)" means any official disciplinary action of record which is presented to the Employee in writing with a copy placed in the Employee's official personnel file. This is for disciplinary actions other than days off without pay;

P. "Supervisor" means an Employee holding the rank of Sergeant or above;

Q. "Supervisor (Immediate)" means the next person in the line of the chain of command to which one has to answer for his or her wrong doing or from which one takes orders;

R. "Standby" means specific incident or event with the possibility of needing sufficient manpower. Standby pay is an incident based system of compensation.

S. "Violations (Minor)" means those violations which are not of such nature as to constitute an immediate suspension, reduction in rank, or dismissal for the first offense. The determination of whether a violation constitutes a minor violation or a serious violation will be based upon the facts of the case and the Employee's past record;

T. "Violations (Serious)" means any violations or a series of minor violations which results in suspension, reduction of rank or a dismissal.

U. "Quartermaster Fund" means all monies originally allocated in the permanent annual budget(Acct.# 217.203.5238100) of the Employer pursuant to Article 28 to supply or replace police related uniforms, civilian attire, and personal police equipment necessary and approved to perform the police function. It does not include the purchase of firearms or ballistic vests provided to officers.

V. "Flex schedule" means scheduling starting times and ending times to accommodate the specialty jobs listed in Article 26 Section 26.1. A workday will still consist of 8 or 10 consecutive hours, depending on the schedule the employee is working. Employees will not be required to split shifts.

W. "Counseling" means constructive corrective action taken by a supervisor to improve performance deficiencies of a minor easily correctable nature. Counseling sessions will be the preferred course of action for minor offenses. These counseling sessions may be written, oral, and/or include training.

**ADDENDUM B**

**Police Pay Rates**

	<b>1/1/2017</b>		<b>1/1/2018</b>		<b>1/1/2019</b>	
	<b>BASE HOURLY RATE</b>	<b>Base rate x 2080 hours</b>	<b>BASE HOURLY RATE</b>	<b>Base rate x 2080 hours</b>	<b>BASE HOURLY RATE</b>	<b>Base rate x 2080 hours</b>
	<b>1.75%</b>		<b>1.75%</b>		<b>1.50%</b>	
Police Non Certified	17.5758	36,557.64	17.8834	37,197.39	18.1516	37,755.35
0 Months thru 12 Months	19.8879	41,366.73	20.2359	42,090.65	20.5394	42,722.01
13 Months thru 24 Months	22.3376	46,462.18	22.7285	47,275.26	23.0694	47,984.39
25 Months thru 36 Months	25.2709	52,563.55	25.7132	53,483.41	26.0989	54,285.66
37 Months thru 120 Months	26.3866	54,884.18	26.8484	55,844.65	27.2511	56,682.32
121 Months thru OPEN	27.4563	57,109.15	27.9368	58,108.56	28.3559	58,980.19
Police Sergeant	32.3985	67,388.80	32.9654	68,568.10	33.4599	69,596.62
Police Captain						

(Captains became Deputy Chiefs)