

PS COMMITTEE #2  
June 25, 2009

**MEMORANDUM**

June 23, 2009

TO: Public Safety Committee

FROM: Minna K. Davidson, Legislative Analyst *MKD*  
Susan J. Farag, Legislative Analyst *SJF*

SUBJECT: Policies and practices regarding light duty in public safety agencies

The following individuals are expected to attend:

Joe Adler, Director, Office of Human Resources  
Richard Bowers, Fire Chief, Montgomery County Fire and Rescue Service  
Captain Diane McCarthy, Montgomery County Police Department  
Bruce Sherman, Assistant Sheriff, Office of the Sheriff  
Mark Wulff, Division Chief for Management Services, Department of Correction  
and Rehabilitation

The Public Safety Committee Chair requested this briefing to get a sense of the trends in the use of light duty assignments in public safety departments, how light duty assignments are managed, the costs associated with light duty or backfill requirements, and whether there are opportunities for savings through changes in the policy or management of light duty assignments. The Committee Chair initially hoped to hold this discussion before the Council's review of the FY10 budget, but it was deferred because of the tight time constraints during the budget season.

To establish a framework for this discussion, the Committee Chair sent several questions to the heads of the Departments of Police, Fire and Rescue, Correction and Rehabilitation, and the Offices of the Sheriff and Human Resources. Their combined response is attached on © 1-20. The Sheriff also sent a separate response which is not included in this packet as his responses are incorporated in the combined response. Relevant policy documents for each department are attached as indicated in the table of contents at the end of this memo.

For the Committee session, each department will be asked to comment on its use and management of light duty assignments, followed by an opportunity for Committee discussion and questions.

The Committee may wish to discuss the following issues:

1. The FOP agreement, Article 11, *Chronic Incapacity*, includes two categories of restricted duty: limited duty and light duty. **Do the numbers for the Police Department in Question 1 include both limited and light duty? If so, how do the two categories break out? If only light duty is included, how many individuals are on limited duty?**
2. In the response to Question 1, some departments appear to be showing decreases in the number or percentage of light duty assignments, and some appear to be holding at approximately the same level. **The Committee may want to ask department representatives to discuss the trends in their respective departments, and the reasons for the trends.**
3. The response to Question 3 says that for unrepresented and MCGEO employees, light duty is limited to six months. Light duty for members of the FOP has no limitation. It is not clear whether there is a light duty limit for members of the IAFF, but the response says that the average range of length for light duty assignments is one day to ten years. **What are the advantages and disadvantages of limiting light duty assignments? Of having unlimited light duty?**
4. As all of the public safety agencies are 24/7 operations with shift structures, **the Committee may want to ask department representatives to discuss in more detail how assigning staff to light duty, possibly at a different work location, affects the light duty individual's work schedule, and how it affects the staffing for the individual's normal shift/work location.** (Questions 8 and 9 touch on this issue to some extent, but it may be helpful to discuss it more specifically.)
5. The response to Question 14 indicates that OHR receives copies of light duty requests from DOCR and the Sheriff, and a monthly report on employees on restricted duty from the Police. All MCFRS personnel must report to FROMS for any change in work status. OHR does not always receive light duty reports from the Third Party Administrator for Worker's Compensation. **Does OHR track light duty data across County Government (for example, the number of light duty assignments per month, the range and average length of light duty assignments each month, the most common reasons for light duty, etc.)? If so, what type of data is kept, and how is it used? If not, would there be value in keeping centralized data?**

This packet contains:

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OFFICE OF HUMAN RESOURCES

Isiah Leggett  
County Executive

Joseph Adler  
Director

MEMORANDUM

April 1, 2009

TO: Phil Andrews, Chair, Public Safety Committee  
Duchy Trachtenberg, Chair, MFP Committee

VIA: Raymond M. Kight, Sheriff  
Montgomery County Sheriff's Office

VIA: Richard Bowers, Acting Fire Chief  
Montgomery County Fire and Rescue Services

VIA: Arthur Wallenstein, Director  
Department of Corrections and Rehabilitation

VIA: J. Thomas Manger, Chief of Police  
Montgomery County Police Department

FROM: Joseph Adler, Director  
Office of Human Resources

SUBJECT: Policies and Practices Regarding Light Duty In Public Safety Agencies

On March 2, 2009, we received a request from the Joint PS/MFP Committee for additional information concerning the way "light duty" is handled by Montgomery County public safety agencies and OHR's involvement in the process. Relevant staff from each the affected agencies: Police, DOCR, DFRS, Office of the Sheriff and OHR met to discuss the request and the processes utilized by each department to handle light duty assignments within the constraints imposed by statute and collective bargaining agreements.

Attached you will find a chart which compares the responses of each department to Council's questions, lined up side by side for ease of review. Each department will also have a representative present at the joint Committee hearing scheduled for April 24, 2009.

Please contact me for any additional information

2009 APR -2 PM 3:59  
MONTGOMERY COUNTY

**SUBJECT: Consolidated Responses for County Council Public Safety and Management & Fiscal Policy Committees**

**QUESTION 1:**

Please provide information showing for each year from FY05 through FY09: average number of uniformed staff on light duty, total number of uniformed staff, and average percentage of uniformed staff on light duty.

	Average Number of Uniformed Staff on Light Duty					Total Number of Uniformed Staff					Average Percentage of Uniformed Staff on Light Duty				
	FY05	FY06	FY07	FY08	FY09*	FY05	FY06	FY07	FY08	FY09*	FY05	FY06	FY07	FY08	FY09 *
Department of Correction & Rehabilitation	21	20	13	12	12	299	312	346	332	335* *Not Including Proposed Reductions	7%	6%	3%	3%	3%* * Data through 3/23/09
Fire and Rescue Service	42.8	51.4	51.9	51.8	57.4	957	1025	1090	1101	1152	4.47%* *No data available from 7/04 to 12/04	5.01%	4.76%	4.70	4.98%* * Data from 7/08 to 1/09
Police Department	52	49	53	53	36	1109	1121	1147	1191	1199	3.9%	3.3%	3.4%	3.2%	2.17%* * Data through 3/2/09
Office of the Sheriff	N/A	10	15	17	1	N/A	138	135	146	144*	N/A	1.4% [Weighted average]	1.7% [Weighted average]	1.4% [Weighted average]	0.4% [Weighted average]  *Through 3/24/09

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**QUESTION 2:**

**Describe the range of physical limitations and health conditions that are accommodated with light duty (for example, limitations on lifting, bending, standing). What are the most common types of limitations?**

<b>Dept. of Correction &amp; Rehabilitation</b>	<b>Fire and Rescue Service</b>	<b>Police Department</b>	<b>Office of the Sheriff</b>
<p>Standard limitations pre-populated on the Health Status Report provided by Occupational Medical Services:</p> <ul style="list-style-type: none"> <li>• Walking or standing</li> <li>• Repetitive motions</li> <li>• Lifting and carrying</li> <li>• Heavy exertion</li> <li>• Scaffolding/heights</li> <li>• Environmental factors</li> <li>• Solvents and chemicals</li> <li>• Moving vehicles</li> <li>• Production pressure and a section for "special limitations" which is free form for the medical examiner to add specific restrictions and/or comments not included under standard/pre-populated limitations</li> </ul>	<p>See attached Health Status Report.</p>	<p>The range can be vast as Montgomery County Police does their best to accommodate all type of injuries, illnesses, and restrictions. Currently we are accommodating officers recovering from surgery, those with lifting restrictions, pregnancy and some serious health conditions.</p>	<ul style="list-style-type: none"> <li>• Walking/standing</li> <li>• Repetitive motions</li> <li>• Lifting &amp; carrying</li> <li>• Heavy exertion</li> <li>• Scaffolding/heights</li> <li>• Pregnancy</li> </ul>
<p>Majority of uniformed staff obtain following limitations checked off or written under "special limitation" section on Health Status Report:</p> <ul style="list-style-type: none"> <li>• Requiring sedentary bench/desk work only with an average of 25-50% of working time not to be standing or walking;</li> <li>• Avoiding repetitive motion of the body part</li> <li>• Not permitted to lift or carry objectives greater than between 5-10 lbs</li> <li>• Avoiding heavy exertion</li> <li>• Not permitted to work on scaffolding/heights</li> <li>• Occasionally following is included for uniformed staff: "no pushing, pulling, or restraining of other people."</li> </ul>	<p>Typical limitations are:</p> <ul style="list-style-type: none"> <li>• Bending</li> <li>• Lifting</li> <li>• Standing &amp; sitting</li> </ul>	<p>The most common limitations:</p> <ul style="list-style-type: none"> <li>• Lifting restrictions. This can vary as well from 5 lbs to 59 lbs restriction.</li> <li>• Standing for prolonged periods of time</li> <li>• Avoiding physical exertion and contact</li> <li>• Sitting for prolong period of time</li> <li>• Limitation on amount of driving and bending</li> </ul>	

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**QUESTION 3:**

**What is the range for length of light duty assignments? Has the average length of light duty assignments changed over the past five years? If so, why?**

Dept. of Correction & Rehabilitation	Fire and Rescue Service	Police Department	Office of the Sheriff
<p>For unrepresented and MCGEO employees, light duty is limited to 6 months per the contract and Personnel Regulations.</p>	<p>The average range is from 1 day to 10 years.</p> <p>There is no change over the last five years.</p>	<p>For unrepresented and MCGEO employees, light duty is limited to 6 months per the contract and Personnel Regulations.</p>	<p>Personnel Regulations and Collective Bargaining Agreement (CBA) changes reduced light duty assignments to a maximum of 6 months. Other changes are random statistical variations</p>
<p>The Light Duty has changed recently due to DOCR having requested that as part of previous county contract/labor negotiations – the Light Duty time be reduced from 12 months to 6 months with no extensions.</p> <p>It is DOCR's experience that an employee who has not returned to full duty within 6 months will not return. The Agreement between Montgomery County and MCGEO for years July 2007 through 2010 has language that speaks to the change.</p> <p>All County departments with MCGEO members can now either seek alternative placement for the employee or handle them administratively after the 6 months of Light Duty.</p>		<p>The Employee Health and Wellness Division begins tracking an employee who is expected to be in a restricted duty capacity for 30 days or longer. The length of a light duty assignment can be anywhere from 30 days to a year or more</p> <p>For Fraternal Order of Police members there is no limitation. Police Department also has a status of chronic incapacity which means that the officer has permanent restrictions and cannot perform the essential functions of the job. Officers are allowed to remain in the job in an accommodated position however, they occupy an officer position while doing so.</p> <p>The average length of light duty assignments has decreased over the past few years. This is due to better oversight and education that has been provided. In 2006, the average length of a light duty assignment was 243 days. It was reduced to 189 days in 2008 and continues to reduce.</p>	

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**QUESTION 4:**

How many individuals are on light duty at this time? Please provide a breakout showing the reasons for the light duty assignments and the number of light duty employees associated with each reason.

Department of Correction & Rehabilitation	
5 Staff on Light Duty	
Reason	# of Staff
Left knee injuries	2
Right shoulder injury	1
Cardiac & Cancer illness	1
Pregnancy	1
<b>TOTAL:</b>	<b>5</b>

Fire and Rescue Service	
44 Staff on Light Duty As of Week of Feb. 23, 2009	
Reason	# of Staff
Ankle (Sprain/Strain)	1
Wrist (Surgical)	1
Arm (Sprain/Strain/Surgical)	2
Shoulder (Sprain/Strain/Surgical)	2
Burn (w/other)	2
Neck (Sprain/Strain/Surgical)	3
Personal Health (Situational issues)	3
Back-Low (Pain/sprain/strain/surgical)	8
Knee/Knees (Sprain/Strain/Surgical)	10
Medical (including presumptive)	11
<b>TOTAL:</b>	<b>44</b>

Police Department	
23 Sworn Staff On Light Duty As of Mar. 2, 2009	
Reason	# of Staff
Surgery	8
Breaks/Sprains	9
Pregnancy	6
Health Issues	0
<b>SUB TOTALS:</b>	<b>23</b>

Office of the Sheriff	
3 Staff on Light Duty	
Reason	# of Staff
Pregnancy	1
Knee surgery	1
Back Surgery	1
<b>TOTAL</b>	<b>3</b>

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**QUESTION 5:**

**Of the individuals currently on light duty, how many require light duty because of work related injuries or illnesses?**

<b>Department of Correction &amp; Rehabilitation</b>	<b>Fire and Rescue Service</b>	<b>Police Department</b>	<b>Office of the Sheriff</b>
Of 5 staff on Light Duty <ul style="list-style-type: none"><li>• 2 are due to work related injuries</li></ul> Worker Compensation deemed compensable	Of 44 staff on Light Duty <ul style="list-style-type: none"><li>• 28 are due to work related injuries</li></ul>	Of 23 sworn staff on Light Duty: <ul style="list-style-type: none"><li>• 14 are work related</li></ul>	Of 3 staff on Light Duty as of 3/24/09: <ul style="list-style-type: none"><li>• 1 is work related</li></ul>

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**QUESTION 6:**

**What steps are being taken to reduce the number of work-related injuries or illnesses that result in light duty assignments?**

Department of Correction & Rehabilitation	Fire and Rescue Service	Police Department	Office of the Sheriff
<p>The facilities have an Accident Review Committee which reviews incidents/accidents and work related accident sessions are part of normal senior management teamwork sessions at the facility level.</p> <p>In recent years, DOCR has received the county award for the greatest reduction in job loss time as a function of engaging work place injuries.</p> <p>A major problem is those injuries that occur without a witness or where independent documentation is not available. This relates again to individual case management and review of specific staff members who are clearly more injury prone or where sick leave limitations (availability) are at times followed by alleged job related injuries.</p>	<p>The MCFRS Wellness &amp; Safety Sections are committed to keeping MCFRS personnel safe and healthy at work. The following programs are in place. All are designated to reduce the number of work-related injuries and illnesses:</p> <p>a. Wellness-Fitness Initiative. The program focuses on the employee's overall health, fitness, and wellness. Each employee receives an annual medical evaluation that allows for early identification of medical issues where intervention reduces lost time and medical expenses. Each employee also receives a fitness prescription which is an individualized, detailed fitness plan. Increasing one's fitness reduces the potential for injuries and illnesses and better equips personnel to perform (often strenuous) job tasks in a safe manner.</p> <p>b. Injury investigation and data collection. Each job-related injury is investigated and reported by a Battalion Chief. Data from the reports is compiled to identify trends and/or problem areas so that relevant and specific solutions can be employed to reduce injuries and illnesses. Significant injuries and incidents are thoroughly investigated and disseminated within the organization as educational opportunities.</p> <p>c. Continuing education and Training. MCFRS provides its workforce with safety bulletins and updates and continual training programs covering safety, firefighter survival, and injury prevention (i.e., annual re-certifications, crew resource management, COPDI; command competencies evaluations, etc.). Partnerships</p>	<p>The greatest endeavor has been to provide training on various topics.</p> <p>Police Department saw an increase in motor vehicle collisions, many which resulted in injuries to officers and lost time from work. Yearly driver training was developed to enhance the officers' skills as well as remedial driving for others who have been involved in more than one collision. Training has been presented in conjunction with Risk Management on investigating claims, reporting injuries and identifying potential causes and risks.</p> <p>Supervisors were provided training on the Workers Compensation process as it related to the Department.</p>	<p>a. Periodic medical evaluation by OMS.</p> <p>b. In service annual driver training</p> <p>c. 4/26/07 – Montgomery County's Best Award from Risk Management for Improvements in safety and loss prevention.</p> <p>d. Maintaining appropriate minimum staffing levels.</p> <p>e. Annual physical fitness awards program.</p>

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	<p>with Risk management and outside safety experts have been used to deliver safety training programs in the past.</p> <p>d. Drug and alcohol testing and education. MCFRS employs post-collision and for cause alcohol and drug testing in order to ensure a drug and alcohol-free workplace. In addition, random drug and alcohol testing will begin in the near future. Substance abuse training and education is offered each Monday at the PSTA. All personnel must attend this training.</p> <p>e. Collision investigations and data collection. MCFRS investigates and reports every collision involving an MCFRS vehicle. DriveCam, a video and audio recording system is installed in all new apparatus and is used to record events before collisions occur. DriveCam is very helpful in determining the cause of collisions. Data from DriveCam is then used in injury reduction strategies. DriveCam data, along with collision report data, is used to identify trends in collisions and to develop specific collision/injury prevention programs.</p> <p>f. Station safety inspections. Safety personnel perform station inspections to identify and remove workplace hazards and reduce injuries.</p>		
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**QUESTION 7:**

Please provide a list of tasks that light duty personnel are assigned to perform.

Department of Correction & Rehabilitation	Fire and Rescue Service	Police Department	Office of the Sheriff
<p>If limitations/restrictions allow, we temporarily transfer the uniformed member to MCDC-Rockville to meet minimum shift requirements within a Control Center (unable to do at MCCF-new facility with no control centers)</p> <p>Temporarily transfer the uniformed staff member to Pre-trial Services to assist with contacting clients to ensure program requirements are being met</p> <p>Filing in past records at MCDC Data entry and employment verification of applicants for the DOCR HR Section or, Information Desk/Mail at MCCF</p>	<p>Light duty personnel perform:</p> <ul style="list-style-type: none"> <li>• Clerical duties</li> <li>• Special projects</li> <li>• ECC dispatching/call taking</li> <li>• Drive apparatus to and from repair facilities for the Apparatus Section</li> <li>• Stock new apparatus</li> <li>• Reception duties</li> <li>• Research</li> <li>• Miscellaneous support functions</li> <li>• Battalion Chief Aide</li> <li>• Specialty Team Support and classroom instruction</li> <li>• Training Academy support</li> <li>• Work as Fire Code Enforcement Inspectors</li> </ul>	<p>Tasks can be varied and adjusted to meet the employee's restrictions.</p> <p>Some of the more common ones are:</p> <ul style="list-style-type: none"> <li>• Desktop investigations; follow up over the telephone</li> <li>• Data entry</li> <li>• Report Review</li> <li>• Administrative functions</li> </ul>	<ul style="list-style-type: none"> <li>a. Clerical</li> <li>b. Applicant background investigations</li> <li>c. Domestic Violence victim interviews.</li> <li>d. Special Projects – preparation for accreditation on-site audit</li> <li>e. Data entry and data audits.</li> </ul>

**QUESTION 8:**

When personnel are assigned to light duty, do they stay at the regular work stations, report elsewhere, or a combination?

Department of Correction & Rehabilitation	Fire and Rescue Service	Police Department	Office of the Sheriff
<p>Primarily as listed above (in question 8), uniformed staff must be transferred to a Light Duty unless already assigned to the smaller of the two facilities (MCDC) in which they can assist in maintaining minimum shift requirements within a Control Center.</p>	<p>With the exception of ECC and Code Enforcement, they are not assigned to their regular work stations. They are assigned elsewhere as dictated by Headquarters (HQ). HQ provides the uniformed staff at FROMS with a list, by priority, of positions to fill as light duty personnel become available.</p> <p>As needs change, the change in priority is communicated. The FROMS Battalion Chief and the Executive Assistant Chief from the Fire Chief's Office collaborate several times a week on light duty needs.</p>	<p>It is a combination. If the employee can remain in their assignment with accommodations to meet their restrictions, that is the preferred method.</p> <p>If they cannot, patrol for example, then they will be moved to an assignment that has a workload demand and meets the restrictions of the officer.</p>	<p>Depending on the restrictions from the health care provider, the Deputies are usually assigned to work within their general work area unless a need is required at a separate facility.</p>

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**QUESTION 9:**

**What are the budgetary implications when personnel are assigned to light duty? Are there additional costs to backfill full duty positions? Are savings associated with the tasks that light duty personnel perform? Please provide an estimate of the costs and savings associated with light duty assignments in FY08.**

Department of Correction & Rehabilitation	Fire and Rescue Service	Police Department	Office of the Sheriff
<p>A uniformed employee on light duty usually does not work a Post in the jail because of the potential for injury when dealing with inmates. (A Post is a defined location in the jail, generally at a workstation or desk, where an Officer must always be present to provide custody &amp; security responsibilities.</p> <p>Most Posts are 24 x 7 x 365.) When they do work a post, a LD Officer generates the same cost as a non-LD Officer. If working at another location on LD, where no C&amp;S is required, the LD Officer gets the same pay except that they do not earn the ½-hour daily Lunch/Roll-Call overtime pay. (The average Officer OT is currently \$42/hr.) However, the vacated post cannot be left unstaffed and must be covered by another Officer:</p> <ul style="list-style-type: none"> <li>➤ either on Regular pay if there is an Officer on the schedule for the day (which happens if fewer than average Officers are unavailable due to leave, training, etc.), or</li> <li>➤ On OT if no Officers on the shift are available (generally via volunteering for the OT, but occasionally by draft if no volunteers are available). One WY for Officers is approximately 1546 hours of work at the Post (\$65,000 on average for OT coverage).</li> </ul> <p>In some instances, an Officer normally scheduled to the evening or night shift would not earn shift differential if assigned to LD on the day shift.</p>	<p>Light duty assignments affect the budget when MCFRS must back-fill positions. On average and when back filling is required (back filling is not necessary when we are not in a "hiring mode" the cost to replace an individual on light duty in FY08 was \$47.00 per hour. In FY09, the cost is \$49.00 per hour.</p> <p>Light duty personnel are assigned to perform a variety of functions (see the answer to question #7 above). Most if not all, of these functions would not be performed if not staffed by light duty personnel. Therefore, MCFRS realizes significant productivity gains as a result of the light duty program.</p>	<p>The budgetary implications are the most significant with uniformed patrol officers. Patrol officers in a non-duty or light duty assignment for any length of time would require their position to be backfilled with another officer on over time.</p> <p>Officers in assignments outside of patrol, investigations for example, may be able to perform some of their duties from the office but it would still have an impact, as they would not be able to perform all their duties.</p> <p>In some circumstances, there may be marginal savings by having a light duty employee handle tasks that are not currently being performed or are backlogged. However, this is still at the expense of the division where the employee is originally assigned.</p>	<ul style="list-style-type: none"> <li>a. Loss of productivity</li> <li>b. Backfill full duty positions on overtime bases at 1 ½ regular rate.</li> <li>c. Minimal cost savings for light duty tasks.</li> </ul>

<p>Nonuniformed, nonpost employees on light duty may or may not be able to perform the bulk of their essential duties during their Light Duty.</p> <p>Most are off for some period of time initially and many can perform only part-time or a portion of their work as they recover from their condition. In some cases, their work simply does not all get done or portions are shifted to other staff to absorb. In other cases, however, there may be a need to bring in other staff on overtime to handle critical responsibilities.</p> <p>I do not think there is any standard, nor could we reasonably estimate that cost given the wide variety of circumstances and variables.</p>			
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**QUESTION 10:**

**Who determines when an employee should be assigned to light duty?**

<b>Department of Correction &amp; Rehabilitation</b>	<b>Fire and Rescue Service</b>	<b>Police Department</b>	<b>Office of the Sheriff</b>
<p>The employee's personal physician provides restrictions and the employee is required to take the medical documentation to OMS for review. OMS ultimately provides the Health Status Report indicating restrictions.</p>	<p>If an employee comes to FROMS initially for an illness or injury, the Employee Medical Examiner (EME) at FROMS makes the determination of work status (full duty, no duty, or light duty).</p> <p>If an employee goes to another Health Care Provider for the initial injury or illness, the employee must obtain written documentation from that care provider stating their work status (full duty, no duty, or light duty). An employee then comes into FROMS where the EME makes the final determination, based on restrictions, of work status.</p>	<p>The determination is normally made by the employee's treating physician. Once the employee presents documentation indicating restrictions, the supervisor will contact Employee Health and Wellness Division.</p> <p>A determination is made between the supervisor and Employee Health and Wellness Division (EHW) if the restrictions can be accommodated in place or requires a different assignment.</p>	<p>The Sheriff decides when an employee can be assigned light duty based on examination and report from OMS.</p>

**QUESTION 11:**

**Who manages light duty personnel? What does management of light duty personnel involve?**

Department of Correction & Rehabilitation	Fire and Rescue Service	Police Department	Office of the Sheriff
<p>DOCR HRM manages all Light Duty personnel through assigning, monitoring and reviewing individual cases in case management meetings. This includes items listed on #16 b – f.</p> <p>DOCR believes a full time staff manager to handle case management similar to what exists in other public safety agencies is needed. Given current budget shortfall, we do not have resources to create such a position.</p> <p>Each case as noted above requires significant review given the complexity of paperwork and the need to engage every aspect of the process.</p>	<p>Direct supervision of the personnel on light duty is provided by the section supervisor.</p> <p>Depending on the assignment, this can range from a Captain to an Assistant Chief. Management involves ensuring employees report on time and as scheduled, complete assigned work as required, and coordinating leave and other issues associated with physician's appointments and physical therapy.</p>	<p>The overall oversight for light duty personnel is the responsibility of the Employee Health and Wellness Division (EHW). The division monitors all employees who are less than full duty and have restrictions that need accommodation.</p> <p>This includes employees in a no duty status, light duty status, or chronic incapacity. This also applies to work related and non-work related injuries and illnesses.</p> <p>Fitness for Duty exams are conducted for personnel.</p> <p>Employee Health and Wellness Division (EHW) coordinates duty status exams for officers when there is a disagreement.</p>	<p>While the Chief Deputy Sheriff has overall responsibility for light duty personnel, Montgomery County Sheriff Office does not have staff specifically assigned to manage light duty personnel.</p> <p>Supervision is provided by using the organizational unit supervisor.</p>

**QUESTION 12: MCPD Only**

**A few years ago, a captain position was added to the Police Department to improve the management of light duty personnel. What are the duties of this position?**

**What has been the Department's experience with light duty personnel since the position was added?**

**Police Department**

**Examples of Duties**

- Manage day to day operation of restricted duty employees to include no duty, light duty and chronic incapacity
- Assign tasks and assignments of restricted duty employees
- Coordinate Return to Work and Fitness for Duty exam with OMS
- Coordinate duty status exams for sworn officers with OMS
- Coordinate psychological and substance abuse exams
- Develop case management with third party administrator of workers compensation claims
- Serve as point of contact for the Department in health related matters
- Develop and facilitate training for Department employees in issues concerning restricted duty, the Workers Compensation process, contracts and Personnel Regulations as it pertains to restricted duty, and investigating injury claims
- Oversee scheduling protocols for Department for periodic physicals
- Serve as Department representative on County's Wellness Council
- Handles bio-pack distribution for the Department

As stated previously in question # 3 above, the Department has seen a decrease in the length of time that an employee is on light duty.

This position has brought consistency to a program that in the past was lacking stability.

The compliance rate for completed periodic physicals has increased with the oversight provided by this position.

**QUESTION 13: PS agencies and OHR**

**What is the role of OHR/OMS in managing light duty personnel and returning them to full duty?**

Department of Correction & Rehabilitation	Fire and Rescue Service	Police Department	Office of the Sheriff	OHR/OMS
<p>This rests primarily with OMS.</p> <p>DOCR established a case management meeting/review process 9 years ago to bring all the involved agencies and staff together in a single room. DOCR has been concerned with the number of restrictions but again this is an iterative process involved many hours of case review and management.</p>	<p>The Nurse Case Manager (NCM) at FROMS remains up-to-date on medical issues for personnel.</p> <p>The NCM assists with medical referrals, clarification of medical status by a Private Medical Doctor (PMD) if needed, and coordinates with Gallagher-Bassett (Workers' Compensation third party administrator) on medical information.</p> <p>The uniformed staff at FROMS works with the Nurse Case Manager (NCM) to ensure personnel comply with follow-up exam dates, medical information required deadlines etc.</p>	<p>For Fraternal Order of Police [FPO], officers are not required to go through OMS when returning to a light/restricted duty capacity. The Department has a "Return to Work" form that must be completed by the physician outlining restrictions. This must be turned in to a supervisor before an officer returns to work.</p> <p>If there is a disagreement on duty status or the restrictions, the officer may then be required to go to OMS for a determination by the Employee Medical Examiner.</p>	<p>OHR Occupational Medical Section administers a light duty program for Sheriff's Office deputies represented by MCGEO.</p> <p>OMS performs return to work medical examinations and sends their report to the Sheriff for final action.</p>	<p>OHR/OMS administers the Light Duty Program for MCGEO employees and includes Deputy Sheriffs and Correctional Officers. Light duty is tracked in order to monitor the six months timeframe allotted for temporary medical conditions as set forth in the Collective Bargaining Agreement (CBA), Article 33.</p> <p>The Employee Medical Examiner (EME) performs Return to Work Examinations and follow-up evaluations when employees present to OMS with updated medical information from their treating physicians. The Employee Medical Examiner (EME) assesses the employee's readiness for removing temporary work restrictions through case management, and OMS staff notifies via a health status report the Office of the Sheriff and Corrections and Rehabilitation Department of the employee's fitness for duty.</p> <p>Firefighters are seen by the</p>

				<p>Employee Medical Examiner (EME) in FROMS after injury or illness for determination of restrictions prior to return to duty. Light duty assignments are determined by the Battalion Chief in FROMS. The Battalion Chief tracks light duty assignments.</p> <p>The Nurse Case Manager tracks medical information, assists firefighters with referrals, and collaborates with Worker's Compensation (W.C.). The FROMS' Employer Medical Examiner (EME) follows the same procedures as indicated above in assessing readiness for removing temporary work restrictions.</p> <p>The Police's Wellness Division tracks light duty assignments for police officers and the officers are rarely seen in OMS for light duty evaluations. Police officers are able to return directly to the Police Department after illness or injury. The bureau chief or Wellness Division may require the officer to submit to a medical examination by Employee Medical Examiner.</p>
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**QUESTION 14:**

**Are light duty assignments always reported to OHR?**

Department of Correction & Rehabilitation	Fire and Rescue Service	Police Department	Office of the Sheriff	OHR/OMS
<p>All Light Duty requests (forms) are faxed to OHR/OMS – Ricky Wright, Disabilities Program Manager, upon the employee completing the form and the DOCR human resource manager providing an assignment.</p> <p>If there are any problems in placing an employee, the DOCR human resource manager will contact OMS – Mr. Wright and discuss the particular concerns.</p> <p>OMS is always available for this consultation and Mr. Wright has made enormous efforts to learn about the nature of DOCR work tasks and the essential elements of our work titles.</p>	<p>When needed, the FROMS uniformed staff will inform the Nurse Case Manager (NCM) of the work status of an employee.</p> <p>An employee is required to report to FROMS for any change in work status (no duty, light duty, or full duty).</p>	<p>A monthly meeting is held with representatives from MCP, risk management, and OMS.</p> <p>A report is distributed to attendees providing all employees that are on some type of restricted duty status. This provides a full report to OMS not only on light duty but all statuses.</p>	<p>The Sheriff determines light duty assignments based on evaluations and reports from OHR/OMS.</p>	<p>Light duty assignments are not always reported to OMS. The Third Party Administrator (TPA) for Worker Compensation (W.C.) may recommend the employee return to work based on recommendations for the W.C. treating physician's assessment.</p> <p>The office of the Sheriff and Corrections and Rehabilitation Department sends copies of light duty request forms to OMS for tracking.</p> <p>Fire Rescue Service does not report the light duty assignments but requires the employee to report to FROMS prior to return to work for clarification of restrictions.</p> <p>Police does not report to OHR light duty assignments. OMS receives monthly reports of different types of duty statuses.</p>

**QUESTION 15:**

**What is the process for determining when an employee can return to full duty? Who makes the determination?**

<b>Department of Correction &amp; Rehabilitation</b>	<b>Fire and Rescue Service</b>	<b>Police Department</b>	<b>Office of the Sheriff</b>	<b>OHR/OMS</b>
<p>Once the employee's personal doctor has released the employee to full duty, the employee can return to work without going to OMS as long as the medical documentation indicates full duty with no restrictions.</p> <p>If the employee is unable to return to work within a reasonable time, DOCR will request via OMS or Worker Compensation (W.C.) (depending on the type of case) an Independent Medical Examiner (IME) to bring closure to the issue.</p>	<p>An employee must obtain clearance (full duty documentation) from their Private Medical Doctor (PMD) if they have been to one to seek medical attention. The Employee Medical Examiner (EME) at FROMS will review the Private Medical Doctor's (PMD) documentation and make a determination of work status.</p> <p>Once an employee is cleared for full duty, they notify the uniformed staff at FROMS who then update the database, notify Fire/Rescue Scheduling Office, notify payroll if needed, Fire/Rescue Admin. Services (if work hours had been changed), and the employee's supervisor.</p> <p>The employee is provided with a copy of the health Status Report indicating that they are cleared for full duty. If requested, they must present this to their supervisor.</p>	<p>The determination is made by the employee's treating physician or from an Independent Medical Exam made at the request of Workers Compensation adjustor.</p> <p>Per the Fraternal Order of Police (FOP) contract, employees are not required to go through OMS when returning to duty.</p> <p>They may be required to have a fitness for duty exam if issues appear upon their return.</p>	<p>OMS performs return to work medical examinations and sends their report to the Sheriff for final action.</p>	<p>For Police, the Worker Compensation (W.C.) physician or the primary care physician determines when an officer can return to full duty.</p> <p>For other public safety employees, the Employee Medical Examiner (EME) in OMS and FROMS determine after review of medical documentation and/or examinations whether the employee can perform at full duty capacity with or without accommodation.</p>

**QUESTION 16:**

**What does your department do to help light duty employees return to full duty?**

Department of Correction & Rehabilitation	Fire and Rescue Service	Police Department	Office of the Sheriff	OHR/OMS
<p>a. The type of Light Duty (to include location) provided to the employee by the DOCR human resource manager.</p> <p>b. Request surveillance through Risk Management for Worker Compensation (W.C.) cases and when not approved by Risk Management or not a Worker Compensation case – DOCR uses their own funds.</p> <p>c. DOCR human resource manager holding monthly case management meetings with all stakeholders such as OHR Labor, OHR/OMS, Risk Management, Worker Compensation, County Attorney, and Dept./Div. representatives.</p> <p>d. Daily/weekly/monthly collaboration by DOCR human resource manager with stakeholders on cases as necessary to assist in return to work.</p> <p>e. DOCR human resource manager requests Worker Compensation Nurse Case Manager to visit the employee's doctor and address issues, and attempt to get a release to Light Duty. Additionally, if non-</p>	<p>The uniformed staff at FROMS is in frequent contact with employees to ensure they keep their scheduled appointments, provide medical information as requested, and ensure they are aware of the resources available to them and how to access these resources (Nurse Case Manager, fitness prescriptions by the Exercise Physiologist, rehabilitation, Employee Assistance Program, specialty referral, etc.)</p>	<p>In addition to providing light duty work, the Department offers administrative leave for employees to attend physical therapy appointments.</p> <p>This encourages employees to attend their appointments and keep on track with the healing process. Since Administrative leave is given and they do not have to use their leave, it demonstrates that the Department is committed to assisting the process and is a benefit to the employee.</p> <p>This is offered to all employees that have an accepted work related claim and must have therapy to reach maximum medical improvement.</p>	<p>OMS, through case management efforts, request updated medical information from treating medical providers and the county's workers compensation staff request updated medical information from treating doctors.</p> <p>OMS performs physical examinations.</p>	<p>OMS/FROMS through case management efforts requires updated medical information from treating providers and W.C., performs physical examinations, encourage continued follow-up with the treating physicians, and communicate with the Sheriff, Correction and Rehabilitation and Fire Rescue Service regarding employee fitness to return to a full duty status.</p> <p>Police officers are seen in OMS when services are requested.</p>

<p>Worker Compensation case, DOCR human resource manager will ask/prompt OMS to make additional inquiries.</p> <p>f. DOCR human resource manager requested and was approved by Mctime Project Manager to have a schedule pattern developed for DOCR to group specific employees in a Light Duty status. The grouping through the schedule pattern would allow for a hyperlink to extract all employees in the Light Duty status; thus, enabling the human resource manager to monitor and have easier control over the timecard for accurate recordkeeping.</p> <p>g. The DOCR human resource manager also provides reminders to supervisory staff via Outlook specific to medical notes (expire date).</p> <p>DOCR human resource manager manages a database of employees on Worker Compensation and non-Worker Compensation cases to ensure tracking of medical documentation, Family Medical Leave Act (FMLA) notices if applicable, light duty assignments, and duration, etc.</p>				
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FIRE RESCUE OCCUPATIONAL MEDICAL SERVICES

255 ROCKVILLE PIKE, SUITE 135  
ROCKVILLE, MARYLAND 20850  
PHONE 240-777-5185 - FAX - 240-777-5182

HEALTH STATUS REPORT

Employee's Name: \_\_\_\_\_ Date: \_\_\_\_\_

Position: \_\_\_\_\_ Div/Section: \_\_\_\_\_

Department: \_\_\_\_\_

Type of Exam: ( ) Return To Work ( ) Other \_\_\_\_\_

RECOMMENDATIONS:

- 1. ( ) The examination indicates no significant medical impairment. Can be assigned full duties of position without restrictions.
- 2. ( ) The examination indicates that a medical impairment currently exists that limits work assignments on the following basis: (Check more than one where appropriate.) (date)
  - ( ) Walking Or Standing: Sedentary Bench/Desk work only: not permitted to stand or walk for more \_\_\_\_\_% of the working time. Constant walking or standing is not permitted for period in excess of \_\_\_\_\_ hours.
  - ( ) Repetitive Motions: Must avoid repeated bending, stooping or straining of the \_\_\_\_\_ or working in off-balanced or awkward position.
  - ( ) Lifting & Carrying: Not permitted to lift objects weighting greater than \_\_\_\_\_ pounds, or to carry objects weighing greater than \_\_\_\_\_ pounds.
  - ( ) Heavy Exertion: Should not engage in any activities requiring excessive strain, fatigue. or strenuous activity.
  - ( ) Scaffolding/Heights: Not permitted to work on scaffolding, ladders, roofs or any unprotected areas above ground or floor level.
  - ( ) Environmental Factors: Should not be exposed to dust, fumes, vapors or respiratory irritants.
  - ( ) Solvents & Chemicals: Not to work with or have contact with solvents, acids, detergents or chemicals. ( ) Dry Work Only.
  - ( ) Moving Vehicles: Not permitted to operate county vehicles. Should not work on or near dangerous machinery or operate mobile equipment or hazardous machinery.
  - ( ) Production Pressures: Should not be exposed to excessive mental strain, stress, agitation or excitement.
  - ( ) Special Limitations and/or comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- 3. ( ) The examination indicates significant medical impairment currently exists that restricts all work assignments until \_\_\_\_\_ (date)
- 4. ( ) Deferred, the examination indicates that additional information is necessary. Report from physician due \_\_\_\_\_ Evaluation by independent specialist date scheduled for \_\_\_\_\_
- 5. ( ) A follow-up visit at FROMS is scheduled for \_\_\_\_\_

DATE \_\_\_\_\_ EXAMINER SIGNATURE \_\_\_\_\_

HSR/REV. 12/07

NOTE: PLEASE RETURN THIS FORM TO YOUR SUPERVISOR IMMEDIATELY  
IT IS THE EMPLOYEE'S RESPONSIBILITY TO SCHEDULE FOLLOW-U  
APPOINTMENTS WITH FROMS.



MONTGOMERY COUNTY COUNCIL  
ROCKVILLE, MARYLAND

OFFICE OF THE COUNCIL PRESIDENT

MEMORANDUM

February 18, 2009

TO: Tom Manger, Chief, Montgomery County Police Department  
Richard Bowers, Interim Chief, Montgomery County Fire and Rescue Service  
Arthur Wallenstein, Director, Department of Correction and Rehabilitation  
Raymond Kight, Montgomery County Sheriff  
Joseph Adler, Director, Office of Human Resources

FROM: Phil Andrews, Council President 

SUBJECT: Policies and practices regarding light duty in public safety agencies

This memorandum is to request that the Departments of Police, Fire and Rescue, Correction and Rehabilitation, and the Offices of the Sheriff and Human Resources participate in a Public Safety Committee review of policies and practices regarding light duty on Thursday, March 12, at 9:30 a.m. in the 7<sup>th</sup> floor Council hearing room.

As the budget season approaches, the Committee would like to get a sense of the trends in the use of light duty assignments in public safety departments, how light duty assignments are managed, the costs associated with light duty or backfill requirements, and whether there are opportunities for savings through changes in the policy or management of light duty assignments.

To prepare for the Committee review, we would ask that each department provide its own written response to the attached questions by Thursday, March 5. For the Committee session, each department will be asked to comment on its use of light duty assignments, followed by an opportunity for Committee discussion and questions.

If you have any questions, please feel free to contact Council staff, Susan John (240-777-7921) or Minna Davidson (240-777-7935). We look forward to hearing from you on this important matter.

cc: Tim Firestine, CAO  
Kathleen Boucher, Assistant CAO

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STELLA B. WERNER COUNCIL OFFICE BUILDING • 100 MARYLAND AVENUE • ROCKVILLE, MARYLAND 20850  
240/777-7900 • TTY 240/777-7914 • FAX 240/777-7989  
WWW.MONTGOMERYCOUNTYMD.GOV

## QUESTIONS

### Policies and Practices Regarding Light Duty in Public Safety Agencies

Please respond for your public safety agency by Thursday, March 5:

1. Please provide information showing for each year from FY05 through FY09: the average number of uniformed staff on light duty, the total number of uniformed staff, and the average percentage of uniformed staff on light duty.
2. Please describe the range of physical limitations and health conditions that are accommodated with light duty (for example, limitations on lifting, bending, standing, etc.). What are the most common types of limitations?
3. What is the range for the length of light duty assignments? Has the average length of light duty assignments changed over the past five years? If so, why?
4. How many individuals are on light duty at this time? Please provide a breakout showing the reasons for the light duty assignments and the number of light duty employees associated with each reason.
5. Of the individuals currently on light duty, how many require light duty because of work-related injuries or illnesses?
6. What steps are being taken to reduce the number of work-related injuries or illnesses that result in light duty assignments?
7. Please provide a list of tasks that light duty personnel are assigned to perform.
8. When personnel are assigned to light duty, do they stay at their regular work stations, report elsewhere, or a combination?
9. What are the budgetary implications when personnel are assigned to light duty? Are there additional costs to backfill full duty positions? Are savings associated with the tasks that light duty personnel perform? Please provide an estimate of the costs and savings associated with light duty assignments in FY08.
10. Who determines when an employee should be assigned to light duty?
11. Who manages light duty personnel? What does management of light duty personnel involve?
12. **MCPD only:** A few years ago, a captain position was added to the Police Department to improve the management of light duty personnel. What are the

duties of this position? What has been the Department's experience with light duty personnel since the position was added?

13. **PS agencies and OHR:** What is the role of OHR/OMS in managing light duty personnel and returning them to full duty?
14. Are light duty assignments always reported to OHR?
15. What is the process for determining when an employee can return to full duty? Who makes the determination?
16. What does your department do to help light duty employees return to full duty?

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MCPR, 2001 SECTION 8, MEDICAL EXAMINATIONS AND REASONABLE ACCOMMODATION

**SECTION 8. MEDICAL EXAMINATIONS AND REASONABLE ACCOMMODATION**

(As amended October 22, 2002, December 11, 2007, and October 21, 2008)

**8-1. Definitions.**

- (a) **Applicant:** In this section, applicant means an individual who has received a conditional job offer for a County merit system position.
- (b) **Conditional offer:** An offer of County employment that the OHR Director may withdraw if the applicant fails to meet the medical requirements for the position.
- (c) **Direct threat:** A significant risk to the health or safety of the applicant or employee or others that cannot be eliminated by reasonable accommodation.
- (d) **Disability:** A physical or mental impairment that substantially limits one or more of the major life activities of an individual, a record of such an impairment, or being regarded as having such an impairment.
- (e) **Essential functions:** Job tasks that are fundamental, critical, and not marginal to the position an individual holds or seeks.
- (f) **Fitness-for-duty evaluation:** A medical evaluation of an employee to determine if the employee has a physical or psychological condition that affects the employee's ability to perform the essential functions of the employee's job.
- (g) **Individual with a disability:** A person who is considered to have a disability under the Americans with Disabilities Act (ADA).
- (h) **Job analysis:** As used in this section, a systematic procedure for determining the physical demands, working conditions, workplace hazards, and essential functions of an occupational class.
- (i) **Light duty:** A temporary assignment of alternative work that an employee is qualified and able to perform when the employee is temporarily unable to perform the essential functions of the employee's job because of the employee's medical condition.
- (j) **Light Duty Review Committee:** A committee composed of OPT and SLT bargaining unit and management employees that recommends light duty assignments for disabled employees when the employees' departments cannot find light duty assignments for them.
- (k) **Medical exam protocol:** The types of medical screening and medical tests that the EME requires to determine if an applicant or employee is medically suited for a particular occupation or position.

MCPR, 2001 SECTION 8, MEDICAL EXAMINATIONS AND REASONABLE ACCOMMODATION

- (2) If the EME finds that an applicant is a qualified individual with a disability under the ADA, the department director must provide a reasonable accommodation, unless the OHR Director determines that accommodation would impose an undue hardship on the County.
- (3) The OHR Director may withdraw the conditional job offer and not consider the applicant for employment in that job, if:
  - (A) the EME finds that the applicant with a medical impairment is not a qualified individual with a disability under the ADA; or
  - (B) the applicant is a qualified individual with a disability under the ADA but the OHR Director has determined that reasonable accommodation would impose an undue hardship on the County.
- (e) ***Consequences if applicant refuses or fails to participate in a required medical examination.*** If an applicant refuses or fails to participate in a required medical examination that is given under established standards and guidelines, refuses or fails to provide medical records, or submits inaccurate or falsified medical forms or records, the OHR Director may withdraw the conditional job offer and not consider the applicant for employment for that job.
- (f) ***Required notice to applicant of medical problem.*** If the EME finds after an examination or evaluation of an applicant that the individual has a medical problem, the EME must notify the individual of the problem.

**8-7. Required medical examinations of employees; actions based on results of required medical examinations.**

- (a) ***Conditions under which an employee must participate in a medical examination.***
  - (1) An employee must participate in a medical examination if required by the OHR Director to:
    - (A) determine the employee's ability to safely perform the essential functions of the employee's job;
    - (B) comply with State or Federal law;
    - (C) determine whether the employee currently meets the medical requirements for a particular job; or
    - (D) properly evaluate the employee's request for reasonable accommodation.

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- (2) An employee who is reassigned, transferred, demoted, or promoted on a temporary or permanent basis to a position with a different medical exam protocol than the employee's current position must undergo a pre-placement medical evaluation.

(b) ***Medical monitoring.***

- (1) Employees in positions with significant exposure to hazardous materials or noise must participate in regular medical monitoring as required by State or Federal regulations.
- (2) The EME must determine the scope and frequency of medical monitoring based on the specific hazards to which the employee is exposed on the job.
- (3) The EME and the Risk Management Division of the Finance Department must determine which occupational classes, worksites, or individuals are included in a medical monitoring program under applicable State or Federal criteria.
- (4) Department directors of affected employees must ensure that designated employees are scheduled for required medical exams or tests.
- (5) The EME must comply with Section 8-10 of these Regulations when conducting any type of medical monitoring.

(c) ***Periodic health assessment.***

- (1) Employees in public safety; safety-sensitive, safety-sensitive transit, and certain occupational classes with physically demanding or hazardous duties must participate in periodic health assessments conducted by the EME.
- (2) The EME must determine which occupational classes or individuals require periodic health assessments and the content and frequency of assessments after considering the physical abilities required for the job, working conditions, workplace hazards, the individual's age and medical history, and the requirements of labor agreements.
- (3) Department directors of affected employees must ensure that designated employees are scheduled for required periodic health assessments.

(d) ***Return-to-work clearance.***

- (1) When an employee returns to work after an absence caused by a medical condition that made the employee unable to perform the essential functions of the employee's job, the department director may require the

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employee to report to the EME to determine if the employee can safely perform the employee's essential job duties. The EME must evaluate the employee and advise the department director if the employee is medically able to perform the essential functions of the employee's job.

- (2) If a department director allows an employee with a confirmed positive drug or alcohol test result to return to work, the employee must undergo a return-to-work assessment by the EME.

(e) *Fitness-for-duty evaluation.*

- (1) A department director should request a fitness-for-duty evaluation of an employee if the employee indicates that the employee's decreased performance or performance problem has a medical basis.
- (2) A department director may request a fitness-for-duty evaluation of an employee if the employee's observed behavior indicates the employee may be physically incapable of performing the full range of the employee's job duties. This should only be done in unusual circumstances and after consulting with the OHR Director.
- (3) A department director may request a fitness-for-duty evaluation of an employee if the employee's observed behavior indicates the employee may be mentally incapable of performing the full range of the employee's job duties. A department director should do this only in unusual circumstances and after obtaining the concurrence of the OHR Director.
- (4) The OMS disability case management program staff may recommend a fitness-for-duty evaluation of an employee.
- (5) A department director must request a fitness-for-duty evaluation in writing and send a copy of the request to the employee. The department director must also provide the following information to the EME in writing:
  - (A) name and position of the referred employee;
  - (B) reason why the request is being made, with as many specific examples as possible of the employee's behaviors that prompted the request or examples of job-related problems that pose a direct threat to the employee or others;
  - (C) description of the essential functions of the employee's job or other information pertinent to the job; and
  - (D) a contact person and the person's phone number.

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- (6) After the EME completes the evaluation, the EME must give the department director a written recommendation on whether the employee is fit for duty. The EME must give a copy of the recommendation to the employee.
- (f) ***Evaluation for commercial driver's license.***
  - (1) OMS must ensure that employees who are assigned duties involving driving or the operation of motorized vehicles meet applicable medical standards.
  - (2) OMS must determine if employees are medically qualified to operate commercial motor vehicles in interstate commerce under FMCSA regulations. OMS evaluates these employees every 2 years unless the driver has a medical condition that requires more frequent monitoring.
- (g) ***Application of ADA and reasonable accommodation.***
  - (1) If the EME finds that an employee has a medical condition that impairs the individual's ability to perform the essential functions of the job or would be a direct threat to the health or safety of the employee or others, the EME must determine if the employee's impairment is:
    - (A) short-term, meaning temporary, non-chronic, or expected to be of short duration; or
    - (B) long-term, meaning permanent, chronic, or expected to be of long duration.
  - (2) The department director may take the following actions when the EME determines that the employee's disability is likely to be short-term:
    - (A) allow the employee to use appropriate leave; or
    - (B) temporarily place the employee in a light duty assignment.
  - (3) If the EME finds that an employee's inability to safely perform the essential functions of the job is long term, the EME must determine if the employee is an individual with a disability.
  - (4) The department director must first try to reasonably accommodate an employee with a disability in the employee's current job unless the OHR Director determines that accommodation in the current job would impose an undue hardship on the County. An employee who is not disabled is not entitled to reasonable accommodation.

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- (5) If the employee is an individual with a disability who cannot perform the essential functions of the current job with or without accommodation or if accommodation would impose an undue hardship on the County, the department director may:
  - (A) reassign the employee through a voluntary transfer or demotion to a vacant position for which the employee is qualified, with essential duties that the employee can perform with or without accommodation; or
  - (B) terminate the employee's County employment, if the employee is not reassigned to a vacant position.
  
- (h) ***Light duty evaluation; duration of light duty assignment.***
  - (1) ***Light duty evaluation.***
    - (A) An employee or department director may ask the EME to evaluate an employee for light duty if the employee's healthcare provider recommends that the employee's job duties or working conditions be temporarily modified because of the employee's health condition.
    - (B) After completing the evaluation, the EME must provide a written health status report to the employee and department director that indicates the recommended restrictions and the expected duration of the restrictions.
    - (C) The EME must approve an employee's return to full duty.
  - (2) ***Duration of light duty assignment.*** A department director must not allow an employee's light duty assignment to last longer than 6 months.
  
- (i) ***Work restrictions.*** If the EME finds that the employee, because of the employee's medical condition, can perform some or most of the essential functions of the employee's job but cannot perform certain job functions or must be restricted in the manner that the employee performs certain job functions, the EME must inform the employee and the department director in writing of:
  - (1) the nature of the restriction;
  - (2) whether the restriction is short-term or long-term;
  - (3) the expected duration of the restriction; and

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- (4) whether the employee must be re-evaluated in the future.
- (j) ***Consequences if an employee refuses or fails to participate in a required medical examination.*** If an employee refuses or fails to participate in a medical examination or a fitness-for-duty evaluation, refuses or fails to provide medical records, or submits inaccurate or falsified medical forms or records, the department director may take disciplinary action against the employee or may terminate the employee's employment with the County.
- (k) ***Required notice to employee of medical problem.*** If the EME finds after an examination or evaluation of an employee that the individual has a medical problem, the EME must notify the individual of the problem.

**8-8. Medical reports on applicant or employee fitness.** After a required medical examination, the EME must:

- (a) prepare a written report of the medical findings and a determination of the individual's fitness for the position;
- (b) maintain this report as part of the individual's official medical record; and
- (c) advise the applicant or employee in writing if the EME finds the individual to be medically unqualified, the reason for the disqualification, and the manner in which the individual may appeal the decision.

**8-9. Voluntary medical services offered to employees.**

- (a) ***Policy on medical services offered to employees.***
  - (1) The OHR Director, through programs administered by the EME or by other community health organizations, may conduct voluntary medical examinations, offer medical advice, conduct tests, administer treatments or preventive therapies, and monitor various health conditions as part of an employee health or wellness program made available to employees. An employee's participation in these programs is voluntary.
  - (2) Results or records of voluntary medical examinations, tests, or treatments must be provided only to the employee.
  - (3) The EME must not maintain records related to voluntary medical examinations, tests, or treatments unless:
    - (A) the EME is required to maintain records under Federal, State, or local statutes or regulations; or

MCPR 2001 SECTION 18, DISABILITY LEAVE (AS AMENDED  
APRIL 27, 2004)

Personnel Regs  
Disability Lv.  
and Light  
Duty

**SECTION 18. DISABILITY LEAVE**

**18-1. Definition.**

**Disability leave:** Pay provided by the County instead of Workers' Compensation benefits paid to an employee who is temporarily disabled by an accidental injury or illness resulting directly from the performance of the employee's work.

**18-2. Disability leave.**

- (a) The CAO must ensure that an employee is paid the employee's biweekly base salary instead of Workers' Compensation benefits, if the employee is:
  - (1) temporarily disabled while performing County work; and
  - (2) (A) unable to perform normal duties, as determined by the Workers' Compensation Commission or by the County using Workers' Compensation Commission guidelines; or  
(B) unable to perform alternative duties; as determined by the Employee Medical Examiner.
- (b) The County's payment of the employee's biweekly base salary must:
  - (1) include special pay differentials but not shift pay differentials or overtime; and
  - (2) continue for a maximum of 18 months if the employee uses the County-established network of physicians; or
  - (3) continue for a maximum of 12 months if the employee chooses to receive care from a physician who is not included in the County-established network of physicians.
- (c) An employee who is medically able to perform an alternative or light duty work assignment is not eligible for disability leave if the employee:
  - (1) performs an alternative or light duty work assignment offered by the County;
  - (2) refuses an alternative or light duty work assignment offered by the County; or
  - (3) elects to use FMLA leave instead of performing an alternative or light duty assignment.

32.6 Heating and Air Conditioning

When purchasing new cars and heavy equipment, heating and air conditioning will be provided, if available in the specification sheets. County originated specifications will include heating and air conditioning, if available.

ARTICLE 33

LIGHT DUTY

33.1 Definitions

- (a) Light Duty - A temporary assignment of alternative work that an employee is qualified and able to perform when the employee is temporarily unable to perform his/her regular duties due to medical reasons.
- (b) Light Duty Review Committee - A committee composed of employees represented by the Union and management representatives for the purpose of recommending light duty assignments to the Chief Administrative Officer when departmental efforts to find light duty assignments are unsuccessful.

33.2 Eligibility

To be considered eligible, a determination must be made by the Occupational Medical Services unit that the employee is temporarily unable to perform his/her normal duties due to medical reasons. Occupational Medical will specify limitations as it relates to the assignment of light duty work.

33.3 Requests and Assignment of Light Duty Work

- (a) All requests for light duty work assignments are to be treated fairly by each department and the Occupational Medical Services unit.
- (b) Applications for light duty assignment, available through the Occupational Medical Services' intranet site and the employee's Department, must be completed by the employee and submitted to his/her Department Head **or designee**. This application must be accompanied by a copy of the Health Status Report from Occupational Medical stating that the employee is temporarily unable to perform his/her regular duties due to medical reasons.
- (c) Primary responsibility for the assignment of light duty status employees rests with the Department to which the employee is assigned.
- (d) Departments will identify and maintain an inventory of tasks that may be performed by individuals on light duty. The inventory will be forwarded to the Light Duty Review Committee, with the length of time specified to complete the tasks listed. The inventory may be utilized for employees assigned to their respective departments and/or employees from other departments.
- (e) Departmental officials shall determine within 5 work days whether a light duty assignment within the department is available.
- (f) In the event that a department does not have tasks that may be performed by

light duty personnel, then the affected employee will be immediately referred to the Light Duty Review Committee by the department for consideration of temporary assignment in another department. Referrals to the Light Duty Review Committee must be accompanied by documentation of department efforts to provide a light duty assignment.

- (g) The Light Duty Review Committee will identify within 10 working days tasks available in other departments where an employee could temporarily be assigned. Recommendations of the Light Duty Review Committee will be forwarded to the Chief Administrative Officer for decision. If an employee is assigned light duty work in another department, the employee will remain on the payroll of the department to which he/she was originally assigned.
- (h) If the Light Duty Review Committee is unsuccessful in identifying a light duty assignment and the employee is still interested in placement, then the employee may request additional efforts through the OHR Director (and/or the Chief Administrative Officer).
- (i) Light duty work assignments will not exceed 6 months. At the **expiration** of the **6 month period** the Employee Medical Examiner shall also recommend whether a reasonable accommodation or other administrative action should be pursued.
- (j) The Light Duty Review Committee will consist of 3 bargaining unit employees and 3 management representatives. Union representatives will consist of: one from SLT unit, one from OPT unit, and one at-large member. Management representatives will consist of: one from affirmative action personnel, one from Risk Management/Safety Unit, and one at-large management representative.

## ARTICLE 34

### SAFETY AND HEALTH

#### 34.1 Cooperation

Employees and the Union shall cooperate in the enforcement of the County's safety and health rules and procedures.

#### 34.2 Safety and Health Committee

- (a) The Union and the County mutually agree that employees' safety is of primary concern and that every effort shall be made to promote safe equipment, safe work habits, and safe working conditions. In order to reduce the incidence of duty-incurred injury in County service, the County and the Union shall establish a Safety Committee consisting of the following:
  - (1) 5 representatives of the Union; and
  - (2) 5 representatives of management
- (b) The Union and the County shall select their representatives and each shall make such selections known to the other in writing. The Committee shall select a chair and said position shall be rotated between the County and the Union on a yearly basis. The Committee shall meet at the call of the Chair to formulate such rules

the end of the scheduled work day without the approval of a supervisor, will be:

- (a) considered absent without leave;
- (b) placed in a non-pay status for the period in question; and
- (c) subject to appropriate disciplinary action or termination.

#### 16.11 Placing an Employee on Leave Without Pay

The Department Director may place an employee on leave without pay if the employee is unable to perform the essential functions of the employee's position due to a medical condition and light duty or reasonable accommodation opportunities have been exhausted or are not available.

### ARTICLE 17

#### DISABILITY LEAVE

##### 17.1 Definition

Disability leave is paid leave granted to an employee who is temporarily disabled as the result of an accidental injury or illness sustained directly in the performance of the employee's work, as provided for in the Workers' Compensation law of the State of Maryland.

##### 17.2 Eligibility

An employee who is temporarily disabled in the line of duty and unable to perform normal duties or an alternate duty assignment must be paid the difference between normal County salary and the amount received under the Workers' Compensation law for a maximum period of 18 months of the temporary disability. During the covered period of temporary disability, the Employer will adjust the employee's gross salary to account for the favorable tax treatment of the Workers' Compensation disability pay. Under no circumstances will the employee's adjusted net pay be less than 100 percent of the net pay that he or she received prior to the disability designation. After 18 months, if the employee remains temporarily disabled he/she may use accrued sick, annual or compensatory leave to make up the difference between Workers' Compensation benefits and full salary. When incapacitated for regular work assignments, the employee must be required to accept other work assignments for the period of recuperation if found physically capable or be ineligible for disability leave. The ability of the employee to work will be determined in accordance with the provision of the Executive Regulations on Disability as required by Section 33-100 of the Montgomery County Code.

- (a) An application for disability retirement, prior to the end of the 18-month cap, extends disability leave until such time as the Chief Administrative Officer renders a final decision on the disability retirement application.
- (b) An employee must promptly refund to the County a disability payment to which the employee was not entitled. If the employee does not refund the payment to the County, the employee will be subject to the provisions of Article 5, Section 5.19, *Employee Overpayments*.

by federal law and Maryland State law.

- (4) In post-accident and "for cause" situations where an alcohol test is required by law or this Agreement, a breath alcohol test will be conducted rather than a blood alcohol test.
- (c) Bargaining unit employees who are directed by the Employer to submit to drug and/or alcohol testing shall be permitted to contact a Union representative prior to testing. However, this shall not unreasonably delay the testing and it shall be within the sole discretion of the Employer to complete the testing process.

#### 34.4 Protection from Communicable Diseases

- (a) Unit members shall receive medical testing for AIDS, tuberculosis, hepatitis, and any other communicable diseases when an employee believes he/she has been exposed to such diseases on the job. The costs for such tests shall be payable by the County or otherwise compensable in accordance with existing Workers' Compensation benefits.
- (b) The Occupational Medical Services unit, OHR, will be responsible for coordinating the testing that may occur at hospital emergency rooms, private physicians, or occupational medical section facilities.

#### 34.5 Employee Assistance Program

A bargaining unit employee shall be granted 2 hours of administrative leave to confer with Employee Assistance Program staff for an initial visit.

#### 34.6 County Government Facility Closings

**In the event of a breakdown of equipment, power failure or other adverse situation resulting in a closure of a facility, including but not limited to a closing at the direction of MOSH, after joint inquiry by the CAO or designee and the Union, employees with two hours or less left in their scheduled workday will be granted up to two hours administrative leave. Employees with more than two hours left in their scheduled workday will be reassigned to a different work site, with priority given to the sites requested by the employees absent contrary staffing concerns, or may use annual leave in lieu of working the rest of their shift. Employees in essential operations may be asked to work on a day when operations are officially closed. In the event the County knows a facility is closed prior to the start of the first shift, the County will make a good faith effort to notify employees to report to another location or request annual leave.**

#### 34.7 Return to Work Examinations

Before an employee returns to work after an absence that is the result of a Worker's Compensation injury or has been out 15 or more work days as a result of personal injury or illness, the employee must have a "Return to Work" authorization form completed by the employee's private physician or Worker's Compensation physician authorizing their return to work. The form must be presented to the employee's supervisor immediately upon returning to work. If medical issues arise upon their return to work, the employee may be required to see the Employee Medical Examiner who may make further determinations as to their "fitness for duty". After receiving the "Return to Work" authorization form, the employee's supervisor will forward

this form to the County's Occupational Medical Services unit for inclusion in the employee's medical file. Notwithstanding the above requirements, an employee may be required to submit to a medical examination by the EME to determine fitness for duty.

#### 34.8 Joint Labor/Management Training - Worker's Compensation/Disability Leave

During the term of this contract, joint labor/management training will be conducted for supervisors and shop stewards so as to increase their knowledge of Worker' Compensation and disability subject matter areas.

#### 34.9 Flu Shots

Upon request, and contingent upon the availability of vaccine for individuals not in medically at-risk categories, the County shall provide flu **vaccinations to bargaining unit** employees at no cost.

#### 34.10 Special Medical Examinations

- (a) Unit members who are scheduled for special medical/psychological examinations will be advised in writing of the reasons for the examination and the use that will be made of the results.
- (b) It is expressly understood that a unit member scheduled for a special medical/psychological exam will not be requested or required to sign or provide any waiver of any right or privilege or denied access to the complete medical files produced by a physician, psychologist, or health professional as a result of the special medical/psychological exam except as required by law.

#### 34.11 General Conditions

- (a) Employees are to be provided a safe workplace and are to be furnished with safety devices, protective clothing, and such safeguards as are necessary to reduce or eliminate accidents and injuries and acts of violence. Supervisors and employees are to do everything reasonably necessary to protect their life, health and safety and of that of the public.
- (b) Employees will follow safe practices and operating methods on all jobs assigned. Employees are required to wear safety devices, protective clothing or equipment designated by management for employee protection. The County will provide safety devices and equipment, when required. Refusal or failure of an employee to use or wear such devices or equipment, or failure to follow safe practices and operating methods, shall be grounds for appropriate disciplinary action.
- (c) If the Union believes that a hazard exists and that it has not been eliminated with reasonable promptness, the Union shall have the right to notify the Director of Risk Management, who shall conduct an investigation and respond to the Union.

#### 34.12 Blood Borne Pathogens

In the event that a bargaining unit member is exposed to blood as a result of work-related activity, the County shall take whatever steps necessary at no expense to the bargaining unit member. These steps are to include testing, emergency treatment, and investigation to the extent permitted by law.

*Section B.* It is further agreed that the existing policy concerning court time for investigators shall remain in effect and be extended to apply to Special Assignment Team (SAT) officers pursuant to the grievance settlement memorandum dated February 13, 1984. **Appendix B.**

*Section C. Court Attendance.*

1. Unit members will be present in court and will remain until excused by the presiding judge, the assistant state's attorney, or the court liaison officer until the case in question is concluded.
2. If a unit member has been summoned to court and is unable to attend for any valid reason (personal illness, leave, family problem of urgent proportions, unavoidable conflict of schedule, etc.), then notification of that fact shall be made by the unit member or his/her designee either in person or by telephone to:
  - a. The state's attorney liaison officer if the case is to be tried in circuit court.
  - b. The district court liaison officer for cases tried in the district court.
3. Notification of an inability to attend court shall be provided the court liaison officer so that postponements may be scheduled. [See Side Letter Ref. Court Cancellations.]

*Section D. Cancellation of Court Appearance.* In an effort to provide timely notification to officers concerning the cancellation of scheduled appearances in criminal and incarcerable traffic cases in District Court, the County will establish a call-in process utilizing a dedicated telephone line and will post this information on a recorded message for retrieval by officers.

1. Information regarding the cancellation of court appearances will be posted by recording as of 6 p.m. on the weekday preceding the scheduled court appearance. The County will also endeavor to provide this same information to each officer electronically. Exempt from this notification are District Court closures due to inclement weather, emergency conditions or other such reasons.
2. Officers scheduled to appear in court are required to phone the recorded message on the day preceding the court appearance.
3. If an officer fails to phone the message line as required, and the message line provides information that a specific court case has been cancelled, should the officer appear in court for that specific case, the officer will not be paid in accordance with Section A of this Article for appearing in court.
4. Bargaining unit employees will be provided a toll free number to call for court cancellations.
5. In the event that the message line is inoperative, which precludes officers from obtaining the necessary information concerning court cancellations, they will report for court assignments as scheduled, and be compensated for same in compliance with Section A of this article.

## **Article 11 Chronic Incapacity**

*Section A. Definition of Chronic Incapacity.* An injury, illness, or physical or mental condition which causes a chronic, open-ended, and indeterminate inability to continue to perform one or more of the principal tasks of a police officer as set forth in the class specifications.

*Section B. No Effect Upon Retirement Law.* This procedure shall not interfere with, impede, or supersede any provision of the County retirement law.

*Section C. Placement to be Noncompetitive.* Placement in any assignment as accommodation for a chronic incapacity shall be in the classification and grade held by the employee at the time of the assignment. Such assignment shall be noncompetitive.

*Section D. Accommodation.* The department will use its best efforts to accommodate chronically incapacitated unit members by assigning them to duties within their capacity and within the bargaining unit. If, despite the department's best efforts, no such assignment is made and the member is not retired, the employer will accommodate the unit member in accordance with the Americans with Disabilities Act [ADA]. A claim that the accommodation does not satisfy the requirements of the ADA shall not be grievable.

*Section E. Temporary Incapacitation.* To the extent it is not violative of the ADA or other law, the following shall apply to unit members.

1. *Fitness Categories.* For the purpose of competently dealing with the personnel needs of the department, there are herein established three categories of fitness. The critical criteria for determination of the categories is the ability of an officer to perform the full scope of duties and responsibilities of a sworn police officer. The categories established are: full duty, restricted duty and disability.
  - a. Full Duty Officer is able to fully perform all duties and meet all responsibilities required of a sworn officer.
  - b. Restricted Duty Officer is not able to fully perform all duties or meet all responsibilities required of a sworn officer. Further, the reason for the incapacitation is determined to be of a temporary nature. An officer in this fitness category must have moderate levels of physical fitness and mental health as determined by a medical authority. Within the fitness category of restricted duty, an officer will be in either a limited or light duty status.
2. *Duty Conditions.* The following conditions apply to all officers on restricted duty, (either limited or light duty categories):
  - a. The officer must submit a physician's certification of condition and/or be examined by an Employee Medical Examiner as required by his/her respective bureau chief.
  - b. If the officer is performing in the limited or light duty assignment at an acceptable level of competency, he/she is eligible to receive a regular service increment.
3. *Limited Duty.*
  - a. An officer will be placed in a limited duty status when the officer can perform most of the duties assigned; however, a specific, temporary medical limitation exists regarding the type or degree of duties the officer is physically capable of performing. The medical limitations must be well controlled and present no unreasonable risk to the individual, other employees or the public during performance of duty.
  - b. An officer in a limited duty status may be assigned, on a temporary basis, to a position which has assigned duties and responsibilities consistent with his/her medical restrictions. Upon return to full duty, the officer will normally return to his regular assignment.
4. *Light Duty.*
  - a. Officers will be placed in a light duty status when temporarily incapacitated such that they cannot perform all of the duties of their assignment without presenting an unreasonable risk to the health or safety of themselves, other employees or the public. Light duty includes, but is not limited to, pregnancy.
  - b. An officer in a light duty status will be assigned to a duty position. The duty assignment will be determined in accordance with the needs of the department and be compatible with the restrictions caused by the injury or illness. The department will maintain the Restricted Duty/Disability Unit as one area available for assignment.
  - c. An officer on light duty is subject to the following conditions:
    - (1) Officer is relieved of all law enforcement responsibility. (Being relieved of law

enforcement responsibility means an officer is not required to take police action, but in his judgment he may take action. This decision must be made by the officer on a case-by-case basis after considering the risk of further injury to the officer, the potential injury to the victim of the crime and/or bystanders, and the nature of the event.)

- (2) In stress and psychological cases and in unusual or extenuating circumstances the Employer will determine what, if any, further personnel action is necessary. Various factors, such as the officer's ability to handle a weapon, operate an unmarked police vehicle, make an arrest, deal with the public, etc., will be considered before a determination is made as to what restrictions should apply to the officer.
- (3) If it is determined that the officer's police powers are to be suspended, the commanding officer or his designee will complete MCP 553 (Suspension of Police Powers) and MCP 552 (Memo of Notification).
- (4) In all cases, the officer will be notified in writing as to what restrictions apply.
- (5) Officers will not operate a marked police vehicle. In accordance with Article 35, Section G.(13), a PPV participant will relinquish the car for the period of light duty. The officer may operate administrative vehicles in a non-emergency capacity, i.e., administrative duties.
- (6) A line officer in a light duty status will be temporarily reassigned to an appropriate position within the department. A staff officer may continue to perform in his/her regular assignment depending upon the nature of the injury.

5. *Temporary No-Duty.*

- a. Officers will be in a temporary no-duty status when they are unable to perform the duties and responsibilities of the assignment without representing an unreasonable risk to themselves, other employees or the public. An officer on sick leave or disability leave will be in this status and his/her return to another status must occur consistent with Article 23, §A.3 of this agreement. Sick leave approved in advance for such incidents as medical appointments, family illness, etc., will be an exception to the policy in that the officer will not be in a no-duty status. In other extenuating circumstances, such as leaving work due to a sudden illness or a minor injury, the officer's immediate supervisor may grant permission for the officer to operate a PPV for a reasonable period of time in order to return to his principal place of residence.
- b. The following conditions apply initially to an officer in a no-duty status:
  - (1) The officer will not wear the police uniform.
  - (2) The officer will not operate a police vehicle.
- c. An officer using more than five (5) consecutive days of sick leave shall submit to his/her supervisor a certificate from a physician or other recognized medical practitioner. The certificate shall confirm the illness and officer's inability to report to work or to perform part or all of the duties and responsibilities of his position and the dates of treatment.
- d. After evaluating various factors such as the officer's ability to handle a weapon, operate a police vehicle, make an arrest, deal with the public, etc., a determination will be made as to what restrictions will apply to the officer.
- e. In all cases, the officer will be notified as to what restrictions apply in his/her case.
- f. When the officer remains in this status for more than three (3) days if the cause was job-related or more than fifteen days (15) if the cause was not job-related, the following

condition will apply in addition to those (§ 5.b.1 and 2) above:

The service increment will be delayed if the period of no-duty exceeds 50% of the rating period in accordance with Article 28. In such cases, reassignment of increment dates is not always necessary. The officer must be notified in writing by the department head and be given the reason for the delay prior to the effective date of the action. The necessary paper work should be completed and sent to the Police Personnel Section via the chain of command by the fifth of the month (preceding the increment date) to ensure timely processing.

6. In accordance with Article 28, a service increment shall not be delayed or denied because of a service-connected injury or illness, provided the officer received a satisfactory or acceptable evaluation in the preceding rating period.

*Section F. Reopener.* This article shall reopen should the number of officers who are affected under § D exceeds 1.5% of the bargaining unit complement.

## Article 12 Seniority

*Section A. Definition.* Except as provided in this section below, seniority of a bargaining unit employee is calculated based on the total service time as a police officer or police officer candidate (from the date of commencement of academy class in Montgomery County, except where breaks in service of any duration occur or where an employee has been on authorized leave without pay for a period exceeding two pay periods (excluding leave for a purpose specified in Article 59, Section B.2., parental leave, military leave, leave pending resolution of a dispute over a disability leave determination, the employee is suspended without pay, political leave and any other leave where seniority is protected by statute or by this agreement). A police officer who has been on authorized leave without pay for a period exceeding two pay periods subject to the above exclusions, will not receive seniority credit for that entire period of time. A police officer who leaves County service and is subsequently rehired shall receive credit for purposes of calculating seniority for any years of service prior to the break, regardless of the length of the break. This change in calculating seniority shall be applied prospectively only. When a lateral entry class starts after a regular academy class but graduates before the regular academy class, the date of commencement for the lateral entry class will, for seniority purposes, be the same as the date of commencement for the regular academy class. For the purposes of a tiebreaker between a lateral entry officer and regular academy officer, priority shall be given to the lateral entry officer. Further, whenever seniority is used to determine rights under this agreement between two or more sergeants, date of promotion to the rank of sergeant shall determine seniority. No unit member shall lose any benefit previously attained by virtue of seniority on account of calculation under this article.

*Section B. Seniority List.* The official seniority list shall be prepared by the County and indicate names, classification, dates of employment and service times as of the date of distribution. FMLA and political leave used shall count toward seniority.

*Section C. Dates of Employment.* Dates of employment for bargaining unit employees include the service time from full time employment as a police officer or police officer candidate (from the date of commencement of the academy class.) Except as indicated in §A, in the event of a tie regarding service time under these provisions, the following criteria, in order of priority, shall serve as tiebreakers in determining seniority: (1) academy class standing when two or more employees attended the same academy or lateral class session; (2) actual date of hire by the Montgomery County Government; and (3) months of prior qualifying (Article 36) law enforcement experience for a lateral entry. Retirement time purchased on a "buy back" basis because of military service or service with other agencies in or outside Montgomery County shall not be counted.

*Section D. Probationary Period.* Newly hired employees remain on their initial probationary period a full 12 months (excluding extensions) from the date they receive sworn status. Generally, this will coincide with a change in status from police officer candidate to Police Officer I.

3. With the approval of the supervisor, may be used:
  - a. Under a method involving a reduced workday or workweek,
  - b. On an intermittent basis, or
  - c. Any combination thereof.
4. May be in addition to any other leave taken under this Agreement; and
5. Is subject to a thirty (30) day advance notice requirement.

*Section C. Relation to Other Benefits.* A unit member who uses leave without pay under this Article will retain all health and life insurance benefits for the entire period.

*Section D. Limitations on Leave Usage*

1. Any use of leave for either medical reasons or for the purpose of attending to the immediate family at the time of birth or adoption of a child must be deducted from the 720 hours as authorized in §A.
2. Subject to §E, sick leave donations may not be used to cover leave without pay occurring under this Article.

*Section E. Illness or Injury Relating to Childbirth.* No provisions of this Article shall be interpreted or applied so as to deprive any employee of benefits included in this Agreement at Article 19, *Sick Leave and Sick Leave Donor Procedure*, resulting from any illness or injury to that employee.

*Section F. Increment Date Not To Be Reassigned.* An increment date shall not be reassigned as the result of a leave without pay taken for the purpose of parental leave.

*Section G. When Parental Leave To Be Considered FMLA Leave.* The use of parental leave under this section for a Family and Medical Leave Act [FMLA] purpose will be considered to be FMLA leave and count towards the FMLA entitlement of 12 weeks of leave in a leave year. However, compensatory time used as parental leave cannot be counted as FMLA leave.

*Section H. When FMLA Leave May Be Used In Addition To Parental Leave.* An employee who has exhausted the parental leave provided under this section (720 hours in a twenty-four (24) month period) may still be entitled to use up to twelve (12) weeks of FMLA leave in a leave year in accordance with Article 59 of this Agreement.

## **Article 17 Disability Leave and Injury on the Job**

*Section A. Definition.* Disability leave is paid leave granted to an employee who is temporarily disabled as the result of an accidental injury or illness sustained directly in the performance of the employee's work, as provided for in the worker's compensation law of the State of Maryland.

*Section B. Eligibility*

1. An employee who is temporarily disabled in the line of duty and unable to perform normal duties or an alternate duty assignment, must be paid the difference between normal county salary and the amount received under the worker's compensation law for the period of temporary disability. The County shall provide a supplement to the standard Worker's Compensation benefit so that the gross pay of employees is equal to eighty-five percent (85%) of his/her regular gross pay. In the event that this calculation results in net pay, after taxes, that is less than the employee's regular net pay, the supplement shall be that which is required to provide 100 percent of original gross pay. Gross pay shall not be modified for purposes of calculating final or final average earnings for retirement purposes. This section shall not adversely affect any other calculation or benefit. When incapacitated for regular work assignments, the employee must be required to accept other work assignments for the period

of recuperation if found physically capable or be ineligible for disability leave. The ability of the employee to work will be determined by the County's Medical Examiner or such physician authorized by the chief administrative officer.

2. Disability leave shall be limited to eighteen (18) months for an injury. After 18 months, the employee shall be eligible for sick leave donations from other unit members to make up the difference between workers' compensation benefits and full salary. Sick leave donations under this section shall not require that the unit member exhaust all accrued annual, compensatory and sick leave.

*Section C. Subrogation.* When the accident, injury or illness for which disability leave was granted was caused under circumstances creating a legal liability in a third party, the County has the right of subrogation and the right to enforce the legal liability of the third party. Whenever the employee is reimbursed for disability leave by a legally liable third party, the County must be repaid for all disability leave granted, less attorney's fees.

*Section D. Administrative Leave for Injury on the Job.* Upon certification of an employee's district/unit commander, approved by the chief of police, that an employee is absent due to service-connected injury/illness, the employee shall immediately be placed on administrative leave until a determination concerning eligibility for compensation has been made by the Division of Risk Management, Department of Finance. It is further agreed that if the disability status is denied by the Division of Risk Management, the employee's pay or leave balance shall be adjusted in the following order of priority: first sick leave; second annual leave; third compensatory leave; and fourth leave without pay.

*Section E. Claim Form.* Whenever an injury on the job is reported, *Employee Claim Form*, WCC Form C1, **Appendix E** (or its successor) shall be attached to the departmental form (presently the Supervisors Incident Investigation Report form), and provided to the employee. Employees are not required to sign or attest to the SIIR form (or its successor).

*Section F. Managed Care.* The County may offer the services of a managed care program to unit members. The parties agree to prepare a brochure comparing and describing the benefits of managed care and jointly encourage its use by unit members. Participation in a selection from the Managed Care preferred provider physicians' list shall be voluntary. The County and the Union will encourage employees incurring job related injuries to work cooperatively with nurse advisors who operate under the Managed Care case management system. To this end, the parties acknowledge the goal of the case management system is to assist the employee in obtaining maximum medical improvement in order to return to work at the earliest possible opportunity. The managed care program will have the following components:

1. Employees may at their option select a doctor for treatment from a network of physicians.
2. Employees will receive initial care from a network physician at no cost, even if the claim is ultimately denied.
3. The managed care provider will coordinate benefits with group health provider to avoid confusion and duplication of filings.
4. The managed care provider will perform utilization review of treatment.

*Section G. Method of Payment.* An employee on disability leave will receive his/her full salary through a single check which will include any workers' compensation payment for temporary total disability. At the time the check is issued the Employer will designate what portion constitutes workers' compensation payment and what portion constitutes the difference between workers' compensation and the employee's full salary. The employee's net pay will not be reduced as a result of including workers' compensation benefits in the payroll check. This section does not create a loss in any benefit.

employee's department or agency may be used, and the monies may be transferred to the Employees' Retirement System of Montgomery County, whenever recommended by an employee's department head or agency head and approved by the chief administrative officer.

*Section E. Compensatory Time Not To Be Counted as FMLA Leave.* Compensatory time used cannot be counted as FMLA leave.

## **Article 22 Professional Improvement Leave**

*Section A. Definition.* Professional Improvement Leave is fully or partially paid leave or leave without pay for the purpose of attending conferences and courses of study which are work related.

*Section B. Eligibility.*

1. All sworn bargaining unit members are eligible to receive Professional Improvement Leave for the purpose described in section A of this Article, if approved by the department head or designee.
2. Professional Improvement Leave may not be used for course funded pursuant to Article 39 *Tuition Assistance*.

*Section C. Requests for Professional Improvement Leave.*

1. The Department head or designee shall develop procedures for the approval of Professional Improvement Leave.
2. Department directive 341 dated July 1, 1997, shall remain in effect to the extent it deals with negotiable terms and conditions of employment. The training and selection committee shall include one member of the bargaining unit.
3. Professional Improvement Leave may not be used for the purpose of attending college courses.

## **Article 23 Maintenance of Standards/Retention of Benefits and Conditions**

*Section A.* All members of the bargaining unit retain the following benefits and conditions previously in effect between the parties, including:

1. Deferred compensation program.
2. Use of blood bank;
3. Physical examinations as provided in DD 87-05, found at **Appendix G** of this Agreement.

Before an employee returns to work after an absence which is the result of a workers' compensation injury or who has been out 15 or more work days, the employee must have a "Return to Work" authorization form completed by the employee's private physician or workers' compensation physician authorizing their return to work. The form must be presented to the employee's supervisor immediately upon returning to work. If fitness for duty issues arise upon the employee's return to work, the employee may be required to see the county medical examiner ["CME"] who may make further determinations as to fitness for duty. After receiving the "Return to Work" authorization form, the employee's supervisor will forward this form to the Occupational Medical Services unit for inclusion in the employee's medical file. Notwithstanding the above requirements, an employee may be required to submit to a medical examination by the CME to determine fitness for duty. [See Side Letter.]

4. Workers' Compensation benefits and policies including those relating to physical fitness activities and officer participation in community relations activities;
5. Education Salary Differential or any other pay differential afforded to members of the

- J. An employee who is a member of a reserve component of the armed forces of the United States is not entitled to paid administrative leave for purposes of attending monthly drills. The employee may use annual or compensatory leave or arrange career stand-by in order to attend these monthly drills. Career stand-by will be approved liberally contingent on operational needs. When no leave slots are available, annual or compensatory leave will be granted above the leave slot cap for the purpose of attending monthly drills. When leave slots are available, leave taken to attend monthly drills will count towards the leave slot cap.

## ARTICLE 10 - DISABILITY LEAVE

### Section 10.1 Service Connected Injury

Upon certification of an employee's on-duty Career Duty Operations Chief, approved by the Fire Chief or designee, and based on written certification by an employee's physician, if presented, that an employee is absent due to service-connected injury/illness, the employee shall immediately be placed on administrative leave until a determination concerning eligibility for compensation has been made by the Division of Risk Management, Department of Finance. It is further agreed that, if the disability status is denied by the Division of Risk Management, the employee's pay or leave balance shall be adjusted.

### Section 10.2 Disability Leave

#### A. Eligibility

An employee who is temporarily disabled in the line of duty and unable to perform normal duties or an alternate duty assignment must be paid the difference between normal County salary and the amount received under the workers' compensation law for a maximum period of eighteen (18) months of temporary disability, except as set for in 10.3 (b). During the covered period of temporary disability, the Employer will adjust the employee's gross salary to account for the favorable tax treatment of the Workers' Compensation disability pay. Under no circumstances will the employee's adjusted net pay be less than 100 percent of the net pay that he or she received prior to disability designation. After 18 months, if the employee remains temporarily disabled he/she may use accrued sick, annual or compensatory time to make up the difference between workers' compensation benefits and full salary. When incapacitated for regular work assignments, the employee must be required to accept other work assignment for the period of recuperation if found physically capable or be ineligible for disability leave. The ability of the employee to work will be determined by the County's Medical Examiner or such physician authorized by the Chief Administrative Officer.

B. Extension of Disability Leave

An application for disability retirement, prior to the end of the applicable cap, either twelve (12) or eighteen (18) months as appropriate, extends disability leave until such time as the Chief Administrative Officer renders a final decision on the disability retirement application.

C. Termination of Disability Leave Does Not Affect Other Benefits

At such time as Disability Leave is terminated (pursuant either to Section 10.2 (a) above or Section 10.3 (b) below), the employee shall continue to receive all other county-provided benefits for any period that he/she continues to receive benefits provided under the Workers Compensation Law of the State of Maryland.

Section 10.3 Managed Care for Job Related Injury/Illness

Bargaining Unit employees incurring a job related injury/illness may obtain medical care through a managed care program provided by the Employer. This program will have the following components:

- A. Employees will be permitted to select a doctor for treatment from a network of physicians. The Union shall participate to the full extent allowed by law, rule, and regulation in the establishment of the managed care provider. Participation shall include, but not be limited to, provision of information.
- B. Employees who do not select a physician from the established network shall be eligible for disability leave for a maximum of 12 months. After 12 months, if the employee remains temporarily disabled, he or she may use accrued sick leave, annual leave, or compensatory time to make up the difference between worker's compensation benefits and full salary.
- C. Employees will receive initial care from a network physician at no cost, even if the claim is ultimately denied.
- D. The managed care provider will coordinate benefits with the group health provider to avoid confusion and duplication of filings.
- E. The managed care provider will perform utilization review of treatment.
- F. Nothing in this Section 10.3 shall apply to any job related injury/illness incurred by an employee prior to the start of the Managed Care Program.

#### Section 10.4 Reasonable Accommodation

County Administrative Procedure 4-30 ("Reasonable Accommodation") is expressly incorporated by reference in this Agreement.

#### Section 10.5 Return to Work Examinations

Before an employee returns to work after an absence which is the result of a job related injury, illness or has been out 15 or more calendar days as a result of non-job related personal injury or illness the employee must report to Fire/Rescue Occupational Medical Services for a clearance to return to work medical examination.

#### Section 10.6 Change in Work Status:

- A. Any employee who is relieved from duty or reassigned to a limited duty position (i.e. light duty) due to any medical condition for which he /she would be entitled to receive Workers' Compensation benefits pursuant to Section 9-503 of the Labor and Employment Article of the Maryland Code shall be placed on administrative leave under Article 9.B.3 of the Agreement, or be placed in a light duty assignment as determined by the Employer. An employee relieved from duty or reassigned to limited duty under the circumstances described in this subsection will not be charged sick leave, unless the diagnosis removes the medical condition from coverage under Section 9-503 of the Workers' Compensation law.
- B. For a bargaining unit employee who is relieved from duty or reassigned to a limited duty position pursuant to the conditions set forth under Section A above, such loss of time or referral to modified duty shall be considered a disablement pursuant to Section 9-502 (a) of the Labor and Employment Article of the Annotated Code of Maryland, unless the diagnosis removes the medical condition from coverage under either Section 9-503 or Section 9-502(a) of the Workers' Compensation law.
- C. **Light Duty: The Fire Chief shall consider on a case by case basis requests for 24 hour light duty shifts. Such requests shall not be unreasonably denied.**

#### Section 10.7 Secondary Employment

- A. **For any employee entitled to disability leave, the employer shall pay the covered employee compensation in accordance with section 10.2 governing disability leave.**

- B. The employer shall pay compensation for the period that the covered employee is entitled to disability leave for a maximum period of eighteen (18) months, except as set forth in 10.2(b) and 10.3(b).**
- C. The employee shall be eligible for compensation for such disability leave if the employee is temporarily disabled from the duties of the public safety employment that gave rise to the injury, regardless or whether the employee engages in secondary employment, provided that:**
  - 1. The secondary employment commenced prior to the injury;**
  - 2. The duties of the secondary employment are not likely to cause delay or preclude full recovery and return to work as certified by the FROMS physician and such employment is approved by the Fire Chief. Such requests shall not be unreasonably denied.**

**ARTICLE 11 - FAMILY MEDICAL LEAVE**

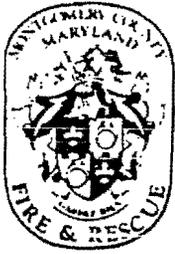
**Section 11.1 Definition**

Family and medical leave is paid or unpaid leave granted to eligible employees for the purposes stated in the federal Family and Medical Leave Act (FMLA) of 1993.

**Section 11.2 Eligibility**

An employee who has been employed by the County for a total of 12 months, and who has been in a work status for at least 1040 hours in the preceding 12 months, must be allowed to use 12 workweeks per leave year of any combination of annual leave, sick leave, disability leave, parental leave, and leave without pay for any one or more of the following reasons:

- A. To care for the employee's newborn or newly adopted child or to care for a foster child newly placed with the employee;**
- B. To obtain prenatal care for the employee or to arrange for the adoption or foster care placement of a child with the employee;**
- C. To care for or arrange care for any of the following with a serious health condition: the employee's spouse or domestic partner, a minor child of the employee or the employee's domestic partner, adult son or daughter of the employee or domestic partner incapable of self care, or parent;**
- D. Because of the employee's serious health condition that makes the employee unable to perform the functions of the employee's position.**



# POLICIES AND PROCEDURES

MONTGOMERY COUNTY  
DEPARTMENT OF FIRE AND RESCUE SERVICES

NO. 528

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DATE

September 26, 1990

TITLE

SERVICE-CONNECTED LIGHT DUTY

DIRECTOR APPROVAL

## PURPOSE

- 1.0 To establish a policy and procedure for assigning DFRS personnel to light duty due to service-connected injuries that prevent them from performing their normally assigned duties.

## APPLICABILITY

- 2.0 All DFRS personnel. This policy was developed in cooperation with the International Association of Firefighters Local 1664.

## DEFINITIONS

- 3.0 Service-Connected Light Duty - A temporary reassignment of an employee due to a service-connected injury, illness or condition which prevents the employee from unrestricted performance of a regular duty assignment.
- 3.1 Full Duty - The unrestricted performance of a duty assignment.
- 3.2 Medically Influenced Duty Status (MIDS) Tracking Officer - A DFRS Officer assigned to monitor personnel assigned to light duty.

## POLICY

- 4.0 Service-Connected Light Duty is a management right exercised at the discretion of the Director or designee to:
- a. assist personnel suffering service-connected injuries to maintain their status within the Fire/Rescue service while they recuperate;
  - b. perform certain necessary Department-level duties which cannot currently be handled due to staffing or fiscal limitations, or would permit the release of full-duty employees for other activities;
  - c. provide personnel with a means to provide service within other Bureaus and learn new skills while preparing to return to full duty.
- 4.1 Personnel sustaining service-connected injuries, illnesses, or conditions that prohibit unrestricted performance of their normal duty assignment must submit copies of Medical Evaluation of Work Status forms as outlined in Section 4.3 and 4.4 of Policy #801, "Worker's Compensation Claims."



# POLICIES AND PROCEDURES

MONTGOMERY COUNTY  
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September 26, 1990

TITLE SERVICE-CONNECTED LIGHT DUTY

DIRECTOR APPROVAL

A handwritten signature in black ink, appearing to be "H. H. H.", written over the "DIRECTOR APPROVAL" field.

- 4.2 Immediately upon being certified as "Qualified for Limited Duty" (as indicated on the Medical Evaluation of Work Status Form) by a licensed health care provider and the Employee Medical Examiner, the employee must notify his/her Senior Career Officer. The Senior Career Officer will, in turn notify the employee's District Chief and Bureau Chief.
- 4.3 Once notified, the Bureau Chief will select a Service-Connected Light Duty assignment based on limitations imposed by the employee's licensed health care provider and advise the employee of the assignment.
- 4.4 All employees are required to report to their light duty assignments as directed.
- 4.5 Service-Connected Light Duty assignments longer than six weeks in duration will result in an adjustment of the employee's work hours to coincide with the normal work shift of the duty assignment.
- 4.6 Employees assigned to Service-Connected Light Duty must submit an updated Medical Evaluation of Work Status Form signed by the treating licensed health care provider at 30 day intervals for the duration of the Service-Connected Light Duty assignment.
- 4.7 Employees assigned to Service-Connected Light Duty are prohibited from engaging in any outside employment without prior written approval from the treating licensed health care provider, Occupational Medical Section, and the Bureau Chief.
- 4.8 Employees on Service-Connected Light Duty who are scheduled to attend physical therapy sessions during assigned days off are not eligible for overtime compensation for such sessions.
- 4.9 Employees on Service-Connected Light Duty must contact their Senior Career Officer on a bi-weekly basis, to keep the Senior Career Officer apprised of their status.
- 4.10 Submission of time and attendance sheets for Service-Connected-Light Duty employees is the responsibility of the immediate supervisor of the light duty assignment.



# POLICIES AND PROCEDURES

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SERVICE-CONNECTED LIGHT DUTY

DIRECTOR APPROVAL

- 4.11 Senior Career Officers must submit to the Medically Influenced Duty Status (MIDS) Tracking Officer a bi-weekly report on the status of light duty personnel. This report must be received no later than the Wednesday following the submission of time and attendance sheets.
- 4.12 Personnel on Service-Connected Light Duty must be re-evaluated and re-certified by the Employee Medical Examiner every 180 days.
- 4.12 At the end of each 180 calendar days of Service-Connected Light Duty, the employee's Bureau Chief will evaluate the injured employee's prognosis (based on the opinions from the employee's licensed health care provider and the Employee Medical Examiner) and may recommend to the Director that the employee be considered for service-connected disability retirement, pursuant to Section 33-43 of the Montgomery County Personnel Regulations and any applicable labor agreement.
- 4.13 All Bureaus must establish and maintain a list of light duty projects.
- 4.14 DFRS personnel who are members of UFCW, Local 400, will follow the provisions established in Article 33c, "Light Duty Assignments for Bargaining Unit Employees," of the collective bargaining agreement between MCGEO and Montgomery County.

## PROCEDURE

- 5.0 Immediately upon being certified as "Qualified for Limited Duty" (as indicated on the Medical Evaluation or Work Status Form), the employee must notify his/her Senior Career Officer.
- 5.1 The Senior Career Officer will schedule the employee for a light duty, back to work physical and notify the employee of the time and date of the appointment.
- 5.2 After receiving clearance from Occupational Medical Section for a light duty assignment, the employee must report to his/her immediate supervisor or Senior Career Officer. Pending selection of a light duty assignment by the employee's Bureau Chief, the employee will remain under the supervision of the Senior Career Officer.

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# POLICIES AND PROCEDURES

MONTGOMERY COUNTY  
DEPARTMENT OF FIRE AND RESCUE SERVICES

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DATE

July 31, 1990

TITLE NON-SERVICE CONNECTED LIGHT DUTY

DIRECTOR APPROVAL

## PURPOSE

- 1.0 To establish a policy and procedure for assigning personnel to light duty assignments because of non-service connected conditions.

## APPLICABILITY

- 2.0 All DFRS personnel.

## DEFINITION

- 3.0 Non-Service Connected Light Duty - A temporary reassignment of an employee due to a non-service connected injury, illness or condition which prevents the employee from unrestricted performance of a regular duty assignment.
- 3.1 Full Duty - The unrestricted performance of a duty assignment.

## POLICY

- 4.0 DFRS is committed to providing non-service connected light duty assignments within the provisions of this policy.
- 4.1 Personnel sustaining non-service connected injuries, illnesses, or conditions that prohibit unrestricted performance of their normal duty assignment may submit a written request to the Director, via the chain-of-command, for a light duty assignment.
- 4.2 Light duty assignment requests must be accompanied by a Medical Evaluation of Work Status Form (AD88001) completed by the employee's licensed health care provider.
- 4.3 The decision to assign light duty rests with the Director or designee. This decision may be based on factors such as employment history.
- 4.4 Placement on Light Duty must be approved by the Occupational Medical Section.
- 4.5 All Bureaus must establish and maintain a list of light duty projects.
- 4.6 Personnel assigned to light duty will normally remain on light duty until cleared for full duty or retirement by a licensed health care provider and the Occupational Medical Section.

