

## 23. LEAVE & DUTY STATUS

(November 2006)

### I. POLICY

Employees are afforded various types of leave that they may take, in most cases, with prior supervisory approval. The administration of the Department's leave program will be in accordance with the provisions of Personnel Law and any applicable labor agreement.

In some cases, employees unable to perform their duties due to an injury or illness will be placed on an appropriate type of leave by a supervisor. In other cases, an employee will be placed on an appropriate type of leave when his or her actions or use of force results in serious physical injuries or death to another person.

### II. CHECKLIST (N/A)

### III. DEFINITIONS

**Absent Without Leave:** A non-pay status when the employee is absent from work without approval

**Administrative Duty:** A restricted duty status that causes an employee to be placed in a non-contact assignment where there is a low probability of public interaction and performing law enforcement duties

**Administrative Leave:** A type of leave that does not affect an employee's base pay or leave balances

**Call-back:** When an off-duty employee is ordered to return to work and perform duties on behalf of the Department

**Day:** For purposes of this section, an 8 hour period

**Stand-by:** When an off-duty employee is required to be available to return to work and perform duties within one hour of recall

**Suspension:** An administrative status in which any rights afforded an officer by privilege or statute are removed until restored by the Chief of Police; can be with or without pay

### IV. FORMS

- ❑ Request for Parental Leave, Family and Medical Leave Form (PGC Form #4471)
- ❑ Certification of Health Care Provider/Family and Medical Leave Act of 1993 (US Form #WHD-380)
- ❑ Employee Injury Form (Supervisor's Accident Investigation & Report for Personal Injury/Follow-Up/Return To Work Notice) (PGC Form #5125)
- ❑ Attending Physician's Notification Form (PGC Form #5147)
- ❑ Suspension Property Checklist (PGC Form #pending)

### V. PROCEDURES

#### 1. Annual Leave

(Personnel Law, Section 16-220)

All full-time employees earn annual leave as follows:

Years of Service	Hours Earned per Pay Period
0-3	4
4-15	6
15+	8

#### *Maximum Accumulation*

For employees covered by collective bargaining, the maximum carryover of annual leave from one calendar year to the

## VOLUME I, CHAPTER 23. LEAVE & DUTY STATUS

next is determined by the negotiated labor agreements.

Beginning with the first pay period in fiscal year 1996, General Schedule (GS) employees may accumulate a maximum of 360 hours of annual leave. G-scale employees shall be allowed to carry over any annual leave earned as of the last full pay period in fiscal year 1995, even if such accumulated amount exceeds the maximum allowed.

At the end of each calendar year, employees' annual leave hours that exceed the maximum shall be converted to sick leave hours.

### ***Use & Approval***

Employees may use annual leave in ½ hour increments. Civilian employees represented by the Police Civilian Employees Association (PCEA) may use annual leave in ¼ hour increments.

A supervisor must approve annual leave in advance. Approval will be based on staffing and employee commitments, such as training, court, or length of leave period requested.

Annual leave requests for five or more days shall be submitted to the employee's supervisor at least 14 days in advance of the leave period. Employees shall submit leave requests for less than five days as soon as possible and reasonable to the time of use. Supervisors shall promptly respond to an employee's leave request.

### ***Annual Leave Payout Upon Separation***

*(Personnel Law, Section 16-221.02)*

Upon separation, a departing employee may:

- ❑ Retain his or her annual leave pending future County employment
- ❑ Apply all or a portion of his or her annual leave balance to employment elsewhere, provided that his or her new employer will accept the leave balance
- ❑ Receive a lump-sum payout in accordance with negotiated labor agreements or Personnel Law
- ❑ Use his or her annual leave balance to purchase service credit in accordance with negotiated labor agreements

The departing employee must select one of the options no later than 10 days prior to separation. Otherwise, the lump sum payout option is automatically triggered.

For employees covered by collective bargaining, the maximum leave payout for employees separating from employment is determined by the negotiated labor agreements. For GS employees, the maximum payout of annual leave upon separation shall be equal to the amount of remaining annual leave as of the end of the last full pay period in FY 1995 or 360 hours, whichever is greater. The rate of payment is the employee's final base hourly rate of pay.

## **2. Sick Leave**

*(Personnel Law, Section 16-221)*

Full-time employees earn 4½ hours of sick leave per pay period with adjustments to ensure accrual of 15 days of sick leave per leave year. Sick leave may be accumulated without limit. Unused sick leave in a leave year is carried over and maintained in the employee's sick leave account.

Employees may use sick leave in ½ hour increments. Civilian employees represented by the PCEA may use sick leave in ¼ hour increments.

### ***Uses***

An employee may use earned sick leave for the following:

- ❑ Sickness, disability, or serious health condition that incapacitates the employee
- ❑ Medical or dental appointments
- ❑ Confinement due to quarantine
- ❑ Illness or serious health condition of a spouse, child, parent, mother/father-in-law, grandparent, or grandchild
- ❑ Death of a spouse, child, parent, grandparent, grandchild, brother, sister, brother/sister-in-law, mother/father-in-law, or son/daughter-in-law (not to exceed five working days)
- ❑ Birth or adoption of a dependent child

### ***Notification***

Employees on shift work shall notify their immediate supervisor of the need to use sick leave no later than 1½ hours prior to the start of their shift. The supervisor shall be responsible for documenting the employee's information on the appropriate sick log.

Employees working permanent schedules shall notify their immediate supervisor of the need to use sick leave at the time the office normally opens for business or within ½ hour of the time they are expected to report to duty.

An employee must make personal contact with his or her immediate supervisor to obtain approval for sick leave.

### ***Certification of Illness***

Supervisors may require an employee to submit a physician's certification of illness or other documentation to support the

employee's use of sick leave. Employees shall present the requested certification to their supervisor upon returning to duty.

### ***Denial of Sick Leave***

When the Chief of Police denies a sick leave request, time absent from work is charged to the employee's annual leave balance. If the annual leave balance is insufficient to cover the absence, the deficiency shall be charged as Leave Without Pay (LWOP).

### ***Employer-Mandated Sick Leave***

The Chief of Police may place an employee on sick leave whenever a medical opinion confirms that the employee's medical condition may seriously impair his or her ability to perform his or her duties or may jeopardize the health or safety of the employee or other persons.

### ***Sick Leave Payout Upon Separation***

*(Personnel Law, Section 16-221.02)*

Upon separation, departing employees may:

- ❑ Retain their sick leave pending future County employment
- ❑ Apply all or a portion of their sick leave balance to employment elsewhere, provided that their new employer will accept the leave balance
- ❑ Receive a lump-sum payout in accordance with negotiated labor agreements or Personnel Law
- ❑ Use their sick leave balance to purchase service credit in accordance with negotiated labor agreements

The departing employee must select one of the options no later than 10 days prior to separation. Otherwise, the lump sum payout option is automatically triggered.

## VOLUME I, CHAPTER 23. LEAVE & DUTY STATUS

### **3. Holiday Leave**

*(Personnel Law, Section 16-219)*  
*(Negotiated Labor Agreements)*

Employees, both sworn and civilian, are eligible for holiday leave with pay on County holidays as established by Personnel Law.

Employees that must work on a holiday shall be compensated in accordance with negotiated labor agreements.

When a holiday falls on an employee's regular day off, he or she shall be compensated in accordance with negotiated labor agreements.

### **4. Compensatory Leave**

*(Personnel Law, Section 16-227)*  
*(Negotiated Labor Agreements)*  
*(Fair Labor Standards Act)*

Once earned, employees shall be permitted to use compensatory leave within a reasonable amount of time. Employees may be required to use FLSA compensatory leave prior to County compensatory leave based on applicable laws and negotiated labor agreements.

### **5. Personal & Discretionary Leave**

*(Personnel Law, Section 16-228)*  
*(Negotiated Labor Agreements)*

Personal leave is granted in accordance with negotiated labor agreements and Personnel Law. Personal leave may be taken in four-hour increments during the wage year in which it is earned.

Discretionary leave is granted in accordance with negotiated labor agreements or applicable County salary schedules. Discretionary leave may be taken in one-

hour increments, unless stated otherwise in labor agreements or salary schedules.

### **6. Administrative Leave**

*(Personnel Law, Section 16-222)*  
*(Administrative Procedure #284)*

The Chief of Police may grant administrative leave to any full or part-time employee for any one of the following:

- Jury duty
- Voting
- Pending the Chief of Police's decision when an AHB has recommended termination
- Pending results of an internal investigation
- Time away from the job on the date of an injury or occupational disease for medical treatment
- To attend educational courses directly related to an employee's duties
  - Requests must be approved in advance by the County Personnel Officer and must not exceed 20 working days in a year
- To participate in law enforcement related competitions where the participants act as Departmental representatives and no inherent safety issue exists (i.e., the Pistol Team)
- To donate blood
- To investigate alleged acts of employee criminal misconduct, in accordance with Personnel Law Section 16-193(c)(2)(1)(2)
- To undergo a medical examination ordered by the Chief of Police
- During the five day period required by Personnel Law 16-201, when the employee's presence at work is deemed to not be in the agency's best interest

## VOLUME I, CHAPTER 23. LEAVE & DUTY STATUS

### 7. Bereavement Leave

(Personnel Law, Section 16-221 & Section 16-222)  
(Negotiated Labor Agreements)

Bereavement leave may be taken following the death of a:

- Spouse
- Child (including biological, adopted, foster, stepchild, or legal ward)
- Parent
- Grandparent
- Brother
- Sister
- Grandchild
- Brother or sister-in-law
- Son or daughter-in-law
- Father or mother-in-law

Sworn employees and G-scale employees may use up to 5 days of bereavement leave. Civilian employees represented by the PCEA may use up to 4 days of bereavement leave.

In the event of the death of an employee's spouse, child, or parent, the first three leave days shall be administrative leave. The remaining days will be charged to the employee's sick or annual leave balance or as leave without pay.

In the event of the death of an employee's grandparent, grandchild, brother, sister, brother/sister-in-law, father/mother-in-law, son/daughter-in-law, the first leave day shall be administrative leave. The remaining days will be charged to the employee's sick or annual leave balance or as leave without pay.

### 8. Military Leave

(Maryland Code 13-705 & 13-707)  
(Personnel Law, Section 16-223)

Employees who are members of the National Reserve or Guard and are ordered to active duty will receive up to 15 days (120 hours) of paid military leave per leave year. In addition, employees ordered to extended active duty in the military may be eligible to receive supplemental pay upon exhaustion of all annual, personal, compensatory, and discretionary leave.

Employees who are members of the National Reserve or Guard and are ordered to domestic emergency duty related to disaster relief or civil disturbance shall also be granted up to 15 days (120 hours) of military leave for each such domestic emergency, unless longer periods are authorized by law.

#### ***Military Leave Without Pay***

(Personnel Law, Section 16-223)

The Chief of Police may approve military LWOP when an employee is ordered to active duty in the military during a war or national emergency. The Chief of Police may also approve military LWOP when an employee has exhausted his or her annual entitlement of military leave with pay.

The employee is entitled to return to the position he or she held when granted the military LWOP. The employee must, within 90 calendar days of an honorable discharge, request that the Chief of Police restore his or her position.

### 9. Parental Leave

(Personnel Law, Section 16-225.01)

An employee eligible to earn annual leave may request parental leave. Employees may use up to 40 hours of parental leave for the

## VOLUME I, CHAPTER 23. LEAVE & DUTY STATUS

birth or adoption of a child. Parental leave may be taken in combination with other types of leave or LWOP.

Employees need not use all 40 hours of parental leave at one time. However, all parental leave must be taken within 12 months of the birth or adoption of the child. The leave may not be taken in advance of the birth or adoption.

Employees shall submit a written request for parental leave to their Commander/Director at least 30 days in advance of the requested dates of use.

### **10. Family & Medical Leave**

*(Family and Medical Leave Act of 1993)  
(Personnel Law, Section 16-225.01)*

Employees who are eligible to earn annual leave, have been employed for at least 12 months, and have been paid for a minimum of 1,040 hours during the previous 12 months shall be eligible for up to 15 workweeks of family and medical leave during any 12 month period. For purposes of parental responsibilities associated with the birth or adoption of a dependant child, family and medical leave shall be granted to employees eligible to earn annual leave regardless of length of service with the County.

Family and medical leave may be taken in any combination of paid leave and job-protected LWOP, in increments as small as ½ hour. The 15 weeks may be taken continuously or:

- ❑ As a reduced workday or workweek
- ❑ On an intermittent basis
- ❑ Via a combination of these methods

### ***Uses***

An employee may use family and medical leave:

- ❑ For a sickness, disability, or serious health condition which makes the employee unable to perform the duties of his or her position
- ❑ For the birth of a child and to care for such child
- ❑ Due to the placement of a minor child with the employee for adoption or foster care
- ❑ To care for a spouse, child, parent or parent-in-law with a serious health condition
  
- ❑ A serious health condition is an illness, impairment, injury, physical condition, or mental condition that involves inpatient care in a medical facility or continuing treatment by a recognized health care provider

### ***Requesting Family & Medical Leave***

Employees shall complete the Request for Parental Leave, Family and Medical Leave Form and forward it through the chain of command to the Chief of Police. A memorandum, identifying the circumstances for which the employee needs the leave, shall be attached to the request form. The Chief of Police shall subsequently forward the Request for Family and Medical Leave Form to the County Personnel Officer.

If the need is foreseeable, the employee shall request the leave at least 30 days in advance.

### ***Leave Authorization***

The Chief of Police shall examine any request to determine if it meets the criteria. If the criteria are met, the Chief of Police

## VOLUME I, CHAPTER 23. LEAVE & DUTY STATUS

shall grant the request. Use of family and medical leave will be denied if the requirements are not met. The employee's Commander/Director will be notified of the approved leave by receiving a copy of the Chief of Police's response and shall ensure that the requesting employee is notified.

When an employee uses three or more consecutive days of sick leave, the employee's Commander/Director shall immediately contact the Director, Personnel Services Division to determine if the leave should be designated as family and medical leave. The employee will be notified in writing of the decision and of the employee's rights and responsibilities.

### ***Certification of Serious Health Conditions***

An employee may be required to submit a physician's certification to support the use of family and medical leave. The employee shall present this certification when requested. The documentation shall be provided on the Certification of Health Care Provider/Family and Medical Leave Act of 1993.

When an employee uses medical leave due to a disability or a serious health condition preventing him or her from performing his or her duties, the County, at its expense, may require a second or third opinion and a fitness for duty report. The Employee Injury Form must be completed before the employee can return to work.

### ***Employee Leave Status***

Time absent from work for family and medical leave is charged against the employee's annual or sick leave balances. If the leave balances are insufficient to cover

the absence, the employee will be placed in a job-protected LWOP status.

### ***Employee Benefits & Protection***

Use of family and medical leave cannot result in the loss of any employment benefit that accrued before the start of an employee's leave. The employee must be restored to his or her original or equivalent position with equivalent pay, benefits, and other terms upon his or her return to work.

While an employee is on LWOP status for approved family and medical leave, the County will continue to make contributions to the employee's health and life insurance plans, provided the employee elects to continue the required employee contributions.

### **11. Advanced Leave**

The Chief of Police may grant an employee up to a maximum of 10 working days of advanced leave per leave year. The advance may be annual leave, sick leave, or a combination of the two. When an employee returns to work, any remaining days of advanced leave will be deleted from his or her leave balance.

#### ***Advanced Annual Leave***

*(Personnel Law, Section 16-220)*

An employee who does not have any annual leave may request an advance of annual leave of up to 10 days.

As the employee earns new leave, any leave that was advanced shall be repaid. If an employee separates from County employment with a negative leave balance, he or she shall be indebted to the County for the monetary value of the leave advance.

## VOLUME I, CHAPTER 23. LEAVE & DUTY STATUS

### ***Advanced Sick Leave***

*(Personnel Law, Section 16-221)*

An employee, having used all accumulated sick leave, may either use his or her annual leave or be automatically advanced sick leave up to an amount equal to the employee's accumulated annual leave balance, thus encumbering the annual leave. The employee may not use the encumbered annual leave until he or she has earned sufficient sick leave to offset the advance.

The employee may also request an advance of sick leave of up to 10 days.

As the employee earns new leave, any leave that was advanced shall be repaid. If an employee separates from County employment with a negative leave balance, he or she shall be indebted to the County for the monetary value of the leave advance.

### ***Requesting Advanced Leave***

When an employee submits an advanced leave request, his or her supervisor shall:

- ❑ Verify that the need for leave is stated
- ❑ Verify the leave balance and eligibility for the advanced leave request
- ❑ Submit a cover letter of concurrence or non-concurrence for the request and a summary of the employee's leave status to the Chief of Police

### **12. Leave Transfer to Another Employee**

When an employee's sick and annual leave balances have been exhausted during a protracted illness, he or she may request:

- ❑ Up to 10 days of advanced sick leave
- ❑ A leave donation from another employee

- ❑ Approval to use family and medical leave without pay
- ❑ LWOP

The employee's supervisor shall submit a memorandum requesting the leave donation through the chain of command to the Chief of Police. The Chief of Police must approve all requests for leave donations.

Leave donations must be voluntary and may be transferred from either annual or sick leave balances. Transferred leave that is not used by the recipient will be automatically returned to the donor. Donors cannot secure leave advances to transfer leave to another employee.

### **13. Leave Without Pay (LWOP)**

*(Personnel Law, Section 16-225)*

Employees may request LWOP when sick and/or annual leave balances have been exhausted. An employee must exhaust all accrued sick leave before he or she is eligible for family and medical LWOP.

The Chief of Police may grant LWOP with the concurrence of the Director, OHRM. Once approved LWOP begins, the employee must remain in LWOP status for the entire approved period, unless the Chief of Police approves an early return.

### ***Reasons for Granting LWOP***

LWOP may be granted, for periods of up to one year per request, to allow an employee:

- ❑ To be retained after accumulated sick and/or annual leave has been exhausted
- ❑ To participate in educational programs not authorized under administrative leave provisions when participation will contribute to the employee's effectiveness

VOLUME I, CHAPTER 23. LEAVE & DUTY STATUS

- ❑ Who has applied for a Workers' Compensation temporary award to be placed directly on LWOP without requiring the exhaustion of sick or annual leave balances
- ❑ Who has been on approved sick or annual leave, to be retroactively placed on LWOP after receipt of a Workers' Compensation temporary total award

LWOP may be granted for a period not exceeding 30 calendar days per request for personal reasons. The Chief of Police may grant use of LWOP for a period not exceeding 15 weeks for family and medical leave.

***LWOP Request Procedure***

Employees must explain the need for LWOP in a written request to the Chief of Police. It shall be submitted at least two weeks prior to the date that the LWOP is to begin. If retroactive LWOP is desired, it must be requested within 30 calendar days of a workers' compensation award.

***Reinstatement of Leave Upon Retroactive Approval of LWOP***

An employee who has exhausted 180 days of disability leave plus their sick and annual leave may request that all or part of his or her sick and annual leave be reinstated after a temporary total disability award is received.

The hours of leave to be reinstated shall be calculated by:

- ❑ Determining the amount of the award
- ❑ Subtracting the amount of the award pertaining to the 180 days of disability leave
- ❑ Dividing the remaining dollar amount by the employee's hourly pay rate to yield

the number of hours of leave to be reinstated

Annual leave will be reinstated first.

Example:

Award amount	\$10,000
Amount of award pertaining to disability leave	\$6,000
Remaining dollar amount	\$4,000

$\$4,000/\$20$  (hourly rate) = 200 hours to be reinstated

An employee who is not eligible for disability leave but receives a Workers' Compensation award may also request reinstatement of all or part of the sick and annual leave that he or she used while recovering from his or her injury. This may be done provided that the LWOP is substituted for the time lost. The hours of reinstatement shall be calculated by dividing the amount of the award by the employee's hourly pay rate to yield the number of hours to be reinstated. Annual leave shall be reinstated first.

Reinstatement of any annual or sick leave results in the employee being placed in a LWOP status retroactively and affects the earning of leave for the hours reinstated. The employee's sick and annual leave balances will be adjusted to reflect that sick and annual leave was not earned while on LWOP. Requests for retroactive LWOP must be made within 30 days of the workers' compensation award.

## 14. Absent Without Leave (AWOL)

*(Personnel Law, Section 16-226)*

An AWOL employee is subject to disciplinary action for abandoning his or her position. AWOL is a Category II disciplinary offense.

### *Conversion of AWOL to Other Leave*

AWOL may be converted to annual leave, sick leave, or LWOP with the Chief of Police's approval. The employee must present acceptable proof that the unauthorized absence was due to extenuating circumstances beyond his or her control.

## 15. Disability Leave

### *Employee's Leave Status*

Time absent from the job for medical treatment on the date of injury or occupational disease shall be charged to administrative leave.

An employee may be placed on disability leave when they incur an illness, injury, disability, or medical condition that prevents them from performing the duties of their position. Risk Management, in consultation with OHRM, determines an employee's eligibility for disability leave based on supporting medical documentation, provided that proper notifications of the injury or illness were made. Supervisors must receive approval from Risk Management prior to coding an employee's timesheet for disability leave.

Employees are not back-charged sick or annual leave for leave used while waiting for approval for disability leave.

If the injury or illness is subsequently determined not to be duty-related or does not require the employee to remain on disability leave, the employee shall be placed on sick leave, returned to full duty, or placed on light duty.

Suspension of police powers in these cases is determined on a case-by-case basis, after supervisory recommendation and command review. The employee's Bureau Chief makes the final decision.

### *Disability Leave*

*(Personnel Law, Section 16-224)*

Employees who are disabled while working receive full salary for the period of temporary disability without charge against their leave balance, provided:

- ❑ The disability resulted from an injury or illness sustained directly in the performance of duties
- ❑ Risk Management, in consultation with the Office of Human Resource Management (OHRM), decides that the disability meets the eligibility criteria

Employees who are on disability leave for more than seven calendar days shall telephone the Department's Risk Manager weekly to verify the continued disability. The Risk Manager shall document this contact in the Follow-Up Section of the Employee Injury Form.

### *Disability Leave Time Limitations*

*(Administrative Procedure #284)*

Disability leave is limited to the period specified in the Attending Physician's Notification Form. Disability leave may be granted for up to 30 calendar days based on one Attending Physician's Notification. Employees on disability leave shall submit

## VOLUME I, CHAPTER 23. LEAVE & DUTY STATUS

an Attending Physician's Notification Form to Risk Management at least every 30 calendar days in order to be eligible for additional disability leave.

Employees may be granted disability leave in half-day increments for follow-up medical appointments after a return to duty.

Disability leave shall not exceed 180 calendar days for any one injury or illness. If an employee remains totally incapacitated after the 180 days of disability leave, he or she shall be placed on either sick or annual leave or LWOP, as appropriate.

### ***Additional Leave Periods***

*(Personnel Law, Section 16-189)*

Employees on extended disability leave must be referred to the Medical Advisory Board (MAB) for an independent medical examination prior to the 120<sup>th</sup> day of leave. This will ensure that the County's medical provider has evaluated the employee before the 180<sup>th</sup> day.

Employees who are close to exhausting their allotment of disability leave may request additional leave periods. Officers may be granted up to two additional 90-day periods of disability leave. Civilian employees may be granted one additional 90-day period of disability leave.

Employees shall prepare a memorandum requesting a grant of additional disability leave and submit it through the chain of command to the Chief of Police. The Chief of Police shall review the request along with other relevant documentation to decide the appropriateness of recommending the continuance of disability leave.

Additionally, employees who may be eligible to receive one or both of the

contractually authorized 90-day extensions of disability leave must be referred to the MAB for a re-evaluation prior to the 60<sup>th</sup> day of each 90-day extension. Employees applying for any extension of disability leave will have their duty status and medical condition, including a report from the treating physician stating the current diagnosis, prognosis, and treatment plan, reviewed by the MAB.

Disability leave use is cumulative and does not require consecutive use periods. The Personnel Services Division will send a letter to employees consistently granted disability leave for two or more pay periods, advising them that their Family and Medical Leave (FMLA) runs concurrently with disability leave. When an employee uses fifteen or more weeks of disability leave during a calendar year, their FMLA leave entitlement will be exhausted.

### ***Civilian Employees***

Civilian employees covered by the PCEA may be placed on disability leave after obtaining a completed Attending Physician's Notification Form. Risk Management, in consultation with OHRM, shall determine eligibility for disability leave for PCEA-covered civilian employees.

All other civilian employees not returning to work following a job-related injury or occupational disease, shall be placed on sick leave, annual leave, LWOP, or personal leave until the Office of Human Resource Management (OHRM) establishes the employee's eligibility for disability leave or detail assignment.

### ***Granting of Disability Leave***

*(Administrative Procedure #284)*

Sworn employees shall request that the physician thoroughly review the Attending Physician's Notification Form and position description for police officers before completing the form to ensure that light duty is mentioned as an option in lieu of no duty.

If the MAB decides that light duty was justified when an employee was off work, further disability leave may not be granted. The employee's refusal to accept a light duty assignment renders him or her ineligible for disability leave during the period of temporary disability.

Risk Management will, upon notification and verification of any job-related injury or occupational disease, review the documentation to make a preliminary determination whether disability leave or light duty is appropriate for the injured employee. This decision shall be made within 24 hours of receipt of documentation and shall be based on reasonable information available from the supervisor's report and the Attending Physician's Notification Form.

Unless a medical question arises, the OHRM shall determine final eligibility for disability leave or light duty within three working days of receiving the Attending Physician's Notification Form and the Supervisor's Accident Investigation Report from Risk Management. The OHRM will inform both Risk Management and the employee of its decision.

### ***Medical Questions***

If a medical question arises regarding any employee's eligibility for disability leave, the Department's Risk Manager and OHRM

may refer the question to the MAB. The MAB shall make a determination on the medical question.

### ***Denial of Disability***

Disability leave shall not be granted when the OHRM decides that the employee's disability is not work-related. In such cases, the employee shall be placed on either sick or annual leave, or LWOP status.

If the OHRM establishes the fact that the employee is not disabled, the Chief of Police shall order the employee to return to duty.

If the employee refuses to return to work, the Chief of Police may initiate disciplinary action for being AWOL and/or insubordinate.

## **16. Employees on No Duty**

### ***More than Three Days***

Employees who have been placed in a no duty status by a physician for more than three days shall be temporarily assigned (TDY) to Risk Management.

Upon receiving an Attending Physician's Notification Form that places an employee on no duty in excess of three days, supervisors shall instruct the employee to contact the Department's Risk Manager for further instruction.

No duty employees shall:

- ❑ Report to the Risk Management office in person and complete an employee contact card, to include the employee's current home address and telephone number, and provide it to the Department's Risk Manager; the Department's Risk Manager will make

special arrangements to get employee contact cards from no duty employees who are totally disabled per medical documentation (i.e., unable to drive)

- ❑ Contact the Department's Risk Manager at least once every seven calendar days, either in-person or via telephone, to update the status of their case and/or medical condition
- ❑ Have their timesheets forwarded to Risk Management; the Department's Risk Manager shall be responsible for completing these timesheets
- ❑ Physically respond to the Risk Management office prior to 1430 hours each payday Friday to sign their timesheets; the Department's Risk Manager will make special arrangements to get signatures from no duty employees who are totally disabled per medical documentation (i.e., unable to drive)
- ❑ Forward follow-up Attending Physician's Notification Forms to Risk Management; the forms shall be completed at least once every thirty days or whenever a no duty employee is examined by a physician

The Department's Risk Manager shall be responsible for completing all follow-up injury paperwork for employees who are on no duty in excess of three days.

### ***Three Days or Less***

Employees who are placed in a no duty status for three or fewer work days shall remain at their regular duty assignment. Their immediate supervisor shall be responsible for completing all initial and follow-up injury paperwork.

## **17. Employees on Light Duty**

*(Personnel Law, Sections 16-224 & 16-189)*

An employee with a temporary impairment may be detailed to duties within his or her capacity to perform, pursuant to his or her physician's decision or the MAB's recommendation. Work restrictions and the classes of work that the employee may safely pursue must be specified.

Light duty assignments are limited to the period specified in an Attending Physician's Notification Form, which cannot exceed 30 calendar days per form. The employee's physician must complete additional Attending Physician's Notification Forms to extend his or her light duty assignment. The Chief of Police may grant light duty assignments for up to 180 calendar days.

If a medical question arises regarding any employee's eligibility for light duty, the Department's Risk Manager and OHRM may refer the question to the MAB. The MAB shall make a determination on the medical question.

Employees in a long term light duty assignment related to an on-the-job injury or illness, or in a light duty assignment related to a non-service connected injury or illness must be referred to the Medical Advisory Board (MAB) for an independent medical examination prior to the 120<sup>th</sup> day of the assignment. This will ensure that the County's medical provider has evaluated the employee before the 180<sup>th</sup> day.

Employees on light duty shall not operate any Departmental vehicles.

### ***More than Three Days***

Employees who have been placed in a light duty status by a physician for more than

## VOLUME I, CHAPTER 23. LEAVE & DUTY STATUS

three days may be temporarily assigned (TDY) to another duty assignment. Light duty assignments will be made by Risk Management in consultation with the appropriate Assistant Chief of Police or Bureau Chief.

Upon receiving an Attending Physician's Notification Form that places an employee on light duty in excess of three days, supervisors shall instruct the employee to contact the Department's Risk Manager for further instruction.

Light duty assignments will be based upon:

- ❑ The needs of the Police Department
- ❑ The medical information provided by the attending physician, medical records, and/or the Medical Advisory Board
- ❑ The qualifications of the light duty employee

Commanders/Directors requesting to have light duty employees assigned to their Districts/Divisions shall complete a Request for Light Duty Personnel Memorandum.

Light duty employees shall:

- ❑ Report to the Risk Management office in-person to receive their light duty assignment; the Department's Risk Manager shall notify each light duty employee of his or her TDY assignment and the name of his or her TDY supervisor
- ❑ Complete an employee contact card, to include the employee's current home address and telephone number, and provide it to the Department's Risk Manager
- ❑ Have their timesheets forwarded to their TDY assignment
- ❑ Forward follow-up Attending Physician's Notification Forms to Risk

Management; the forms shall be completed at least once every thirty days or whenever a light duty employee is examined by a physician

The Department's Risk Manager shall be responsible for completing all follow-up injury paperwork for employees who are on light duty in excess of three days.

Supervisors who have light duty employees assigned to them TDY shall:

- ❑ Be responsible for the normal administrative functions (i.e., approving/denying leave, completing inspections, etc.) for each light duty employee
- ❑ Complete each light duty employee's timesheet
- ❑ Write "Light Duty" under each light duty employee's signature on his or her timesheet
- ❑ Ensure that each light duty employee's timesheet is forwarded to Risk Management by 1700 hours each payday Friday.

### *Three Days or Less*

Employees who are placed in a light duty status for three or fewer work days shall remain at their regular duty assignment. Their immediate supervisor shall be responsible for completing all initial and follow-up injury paperwork.

### **18. Change in Duty Status of Employees on No Duty or Light Duty in Excess of Three Days**

No duty employees shall remain in a no duty status until returned to light duty or full-duty by their physician or ordered back to light

duty or full-duty by the Chief of Police or his designee.

Light duty employees shall remain in a light duty status until returned to full-duty by their physician or ordered back to full-duty by the Chief of Police or his designee.

Employees whose duty status has been changed by their physician shall immediately report to the Risk Management office in person with their Attending Physician's Notification Form.

Employees whose duty status has been changed pursuant to an order from the Chief of Police or his designee shall immediately report to the Risk Management office in person to sign their order.

The Department's Risk Manager shall complete the Return to Work Notice section of the Employee Injury Form for each employee whose duty status has been changed. The Department's Risk Manager shall notify Commanders/Directors of changes to their employee's duty status.

Upon notification that an employee has been returned to full-duty, the employee's Commander/Director shall inform the Risk Manager of the employee's assignment. The Risk Manager shall subsequently inform the employee.

The Department's Risk Manager shall make appropriate TDY assignments for those employees who have been upgraded from no duty to light duty status. The Department's Risk Manager shall notify each light duty employee of his or her TDY assignment and the name of his or her TDY supervisor. The light duty employee shall subsequently follow the applicable provisions of section **17. Employees on Light Duty.**

## **19. Assignment of Workers' Compensation Benefits**

Employees shall assign to the County such non-medical benefits as awarded for the temporary disability by the Maryland Workers' Compensation Commission.

## **20. Suspension – Officers**

Officers ranking sergeant or above are authorized to suspend any non-probationary employee subordinate. Any Office of Professional Responsibility (OPR) officer may suspend officers below the rank of captain.

Suspended officers remain on pay status pending the decision of the Suspension Hearing Officer. An alternative to any suspension may be administrative duty.

A suspended officer shall not:

- Make arrests or enforce any law
- Possess a Departmental vehicle
- Possess an authorized firearm in any manner not afforded a citizen
- Possess a Departmental weapon
- Represent himself or herself as an active duty police officer
- Wear any Departmental uniform, uniform article, or display police identification

### ***Discretionary Suspension***

An officer may be suspended for:

- Offenses in **VOLUME I, CHAPTER 11. DISCIPLINE**, section 3. **Limitations of Authority**
- On or off-duty conduct determined to be detrimental to the proper performance of required duties
- Reporting to work intoxicated

## VOLUME I, CHAPTER 23. LEAVE & DUTY STATUS

- ❑ Exhibiting or reporting serious or debilitating psychological problems preventing the employee from satisfactorily executing job tasks
- ❑ Reporting to duty unfit or unprepared for work
- ❑ The best interest of the public, officer, or Department

The propriety of such suspension shall be determined by weighing the gravity of the situation against the effect of the officer's continued duty status pending an internal investigation or personnel action.

### ***Mandatory Suspension***

An officer shall be suspended when:

- ❑ He or she is charged via statement of charges, criminal charging document, indictment, or criminal information from any competent judicial authority with:
  - ❑ Any crime classified as a felony within this state
  - ❑ Any felony in a foreign jurisdiction
  - ❑ Crime of moral turpitude
- ❑ He or she is alleged to have been engaged in conduct of such nature that the Chief of Police determines suspension is an appropriate course

### ***Suspending Officer's Responsibilities***

The suspending officer shall:

- ❑ Contact the **Commander**, OPR
- ❑ Give the suspended officer a letter containing the following:
  - ❑ Reason(s) for the suspension
  - ❑ Date and time of the suspension hearing, which shall be the first

working day following the suspension

- ❑ Send a copy of the letter to the officer's Commander/Director
- ❑ Complete the Suspension Checklist, taking custody of the equipment identified on the form and giving the suspended officer a signed copy of the form
- ❑ Complete an Executive Summary justifying the suspension decision

### ***Suspension Hearing***

The suspension hearing is not a judicial proceeding nor is it directed to the findings of fact or law. It is limited to a presentation of circumstances surrounding the suspension, and only matters dealing directly with the determination of the suspension shall be heard. The hearing officer is the final authority regarding testimony to be heard and may request the assistance of the Office of Legal Affairs.

When the hearing officer determines that the acts allegedly committed by the suspended officer warrant continued suspension, he or she shall so order. If not, he or she shall terminate the suspension.

Suspended officers may be represented by counsel or another representative at the suspension hearing. Suspension hearings shall be tape-recorded.

When criminal or administrative charges are likely to be placed against the officer, he or she may be suspended with pay by the hearing officer. If the officer has been charged with a felony, he or she may be suspended without pay.

Suspension hearing officers shall be the rank of Lieutenant Colonel or acting Lieutenant

## VOLUME I, CHAPTER 23. LEAVE & DUTY STATUS

Colonel. The hearing officer shall advise the suspended officer of his or her decision following the hearing, and promptly submit a report of that decision to the Chief of Police, with copies to:

- ❑ Commander, OPR
- ❑ Fiscal Affairs Division (only for suspension-without-pay cases)
- ❑ Office of Legal Affairs
- ❑ Respondent
- ❑ Respondent's Commander/Director

The suspending officer and Commander/Director of the suspended officer shall attend the hearing. The following may attend the hearing:

- ❑ The suspended officer
- ❑ Commander, OPR
- ❑ OPR investigators
- ❑ Two individuals, invited by the suspended officer, to witness the hearing

The suspended officer may present testimony at his or her suspension hearing.

Suspension hearings are closed proceedings. Except those listed, members of the Department, the public, and the news media are excluded from the hearing unless called to testify. Evidence presented at the hearing is confidential.

### ***Restoration to Duty***

The Chief of Police may return an officer to duty when the reason for the suspension no longer exists.

### **21. Suspension – Civilian Employees**

A civilian employee may be immediately suspended for up to three working days when he or she is intoxicated or commits a

breach of the peace during work hours, provided:

- ❑ The facts are not in dispute
- ❑ No further investigation is needed

This suspension is a final conduct-related disciplinary action. The suspending officer shall complete a ROI.

For serious offenses where the employee must be removed from the job for misconduct, OPR shall be notified. OPR shall place the employee on administrative leave.

If the employee is charged with a serious crime, the Chief of Police shall determine whether administrative leave shall be continued or the employee suspended without pay pending the outcome or conclusion of an investigation or criminal trial.

The Chief of Police may return the employee to full duty when the reason for the suspension no longer exists.

Upon conclusion of an investigation or a criminal trial, the Chief of Police shall consider recommendations and take appropriate disciplinary action.

### **22. Duty Status – Certain Investigations**

#### ***Administrative Leave***

Officers involved in the following incidents may be placed on administrative leave by OPR pending an investigation:

- ❑ Discharge of firearms resulting in injury or death

## VOLUME I, CHAPTER 23. LEAVE & DUTY STATUS

- ❑ Actions that result in the death of a citizen or the hospitalization of a citizen who is expected to die
- ❑ Incidents where preliminary investigation reveals serious employee misconduct

While on administrative leave, employees shall notify both PSC and IAD of how they may be contacted during normal business hours.

The employee shall also provide his or her destination, if he or she will be farther than 40 miles from the intersection of MD Route 4 and the Capitol Beltway (495). Trips of more than one day must be approved by IAD.

### *Administrative Duty*

Officers on administrative duty, when assigned or summonsed, shall:

- ❑ Attend job-related training and participate as instructed
- ❑ Attend court
- ❑ As ordered, perform administrative functions not requiring personal contact with the public

They may take appropriate police actions in emergencies.

Administrative duty may be employed as an alternative to administrative leave to enable an employee to continue working while awaiting the disposition of an internal or criminal investigation, or disciplinary action recommendation sent to the Chief of Police.

Officers on administrative leave or administrative duty are prohibited from working secondary employment or Departmentally-sanctioned overtime assignments. Officers on administrative duty

may work overtime if it is an extension of their normal workday or if it is non-uniform/non-contact overtime assignment.

### *Requesting Change in Duty Status*

The Executive Review Panel (ERP) has exclusive Departmental authority to change the duty status of any employee placed on administrative leave as a result of his or her involvement in incidents identified in this section.

A Commander/Director seeking to change an employee's status from administrative leave to any other status shall make a formal request to the employee's Assistant Chief of Police or Bureau Chief. The Assistant Chief or Bureau Chief, in consultation with the Commander of OPR, shall determine if a change in duty status is appropriate.

### *Recommendation for Termination*

If an AHB recommends that an employee be terminated, his or her police powers shall be suspended and he or she shall be placed on administrative leave. An OPR officer shall recover all equipment listed on the Suspension Property Checklist from the employee.

Department-wide notification regarding the employee's suspension shall be made under the authority of the Commander, OPR.

All letters of termination shall be prepared and served by OPR at the direction of the Chief of Police.

## **23. Employee Work Status During Weather-Related Emergencies**

All Departmental personnel are essential employees. They shall report to work as scheduled during weather-related

emergencies unless otherwise directed by their supervisor. *See:* **VOLUME II, CHAPTER 53. WEATHER RELATED EMERGENCIES & EMERGENCY MOBILIZATION** for additional information.

#### **24. Call-Back to Duty**

All Departmental components shall publish a call-back roster containing telephone numbers where employees may be reached. OICs shall maintain current rosters and ensure copies are provided to Public Safety Communications.

Employees shall be compensated when called-back to duty in accordance with negotiated labor agreements.

#### **25. Stand-By Status**

Stand-by status permits rapid mobilization of employees possessing special skills to deal with unusual occurrences.

Only authorized employees may receive stand-by pay. Authorization for stand-by status must be approved by the employee's Commander/Director. Employees on stand-by shall be compensated in accordance with negotiated labor agreements.

Commanders/Directors shall maintain a current schedule of employees assigned to stand-by status. Schedules shall include:

- ❑ Employee's name, rank (if an officer), and ID number
- ❑ Telephone numbers enabling immediate contact with employees

Commanders/Directors will regularly provide Public Safety Communications with up-to-date schedules of employees on stand-by status.

#### ***Requirements of Stand-By Status***

Employees on stand-by status shall:

- ❑ Be able to respond to the work site properly attired and in possession of necessary equipment
- ❑ Not consume alcoholic beverages or medication that would prevent execution of their duties in the event a response is mandated
- ❑ Not engage in any activity that would hinder their ability to provide a routine response to the work site within one hour after being notified
- ❑ Provide Public Safety Communications with a current method of contact when away from the published contact telephone number

#### **VI. GOVERNING LEGISLATION AND REFERENCE**

This General Order addresses:

- ❑ Commission on Accreditation for Law Enforcement Agencies, Standards 1.3.8, 22.2.1, 22.2.4, 22.2.5, 22.2.9, 26.1.1, 26.1.5, 52.1.8

Governing Legislation:

- ❑ Personnel Law, Section 16-189
- ❑ Personnel Law, Section 16-219
- ❑ Personnel Law, Section 16-220
- ❑ Personnel Law, Section 16-221
- ❑ Personnel Law, Section 16-221.02
- ❑ Personnel Law, Section 16-222
- ❑ Personnel Law, Section 16-223
- ❑ Personnel Law, Section 16-224
- ❑ Personnel Law, Section 16-225
- ❑ Personnel Law, Section 16-225.01
- ❑ Personnel Law, Section 16-226
- ❑ Personnel Law, Section 16-227

## VOLUME I, CHAPTER 23. LEAVE & DUTY STATUS

- ❑ Personnel Law, Section 16-228
- ❑ Administrative Procedure #284
- ❑ Maryland Code 13-705 & 13-707
- ❑ Family and Medical Leave Act of 1993
- ❑ Fair Labor Standards Act
- ❑ Lautenberg Law

### Reference:

- ❑ Negotiated Labor Agreements