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Chicago Police Department Police Accountability Contract Highlights

Contract Period: 7/1/2012 – 6/30/17

[Full Contract Link](#)

This analysis examines the sections of the Chicago Police Department contract that pertain to police accountability. The contract language is noted below along with a translation of the contract language.

While engaging with this document, be mindful of the ways in which the police contracts have guaranteed that the police will police themselves according to a different set of rules.

Highlight #1 – Article 6.1.A (Bill of Rights – Conduct of Disciplinary Investigation)

Contract Language:

The interrogation of the Officer, other than in the initial stage of the investigation, shall be scheduled at a reasonable time, preferably while the Officer is on duty, or if feasible, during daylight hours.

Translation:

Officers are to be interrogated while the officer-as-suspect is on duty and preferably during the daytime. Ultimately, the discretion for choosing the time to investigate an officer-as-suspect rests with the City.

Highlight #2 – Article 6.1.B (Bill of Rights – Conduct of Disciplinary Investigation)

Contract Language:

The interrogation, depending upon the allegation, will normally take place at the Officer's unit of assignment, the Independent Police Review Authority ("IPRA"), the Internal Affairs Division ("IAD") or other appropriate location.

Translation:

An officer-as-suspect is to be interrogated preferably at a limited set of locations: the normal work location of the officer-as-suspect, the Independent Police Review Authority, or the Internal Affairs Division. Ultimately, the discretion for choosing a location of interrogation rests with the City.

Highlight #3 – Article 6.1.C (Bill of Rights – Conduct of Disciplinary Investigation)

Contract Language:

Prior to an interrogation, the Officer under investigation shall be informed of the identities of: the person in charge of the investigation, the **designated primary** interrogation officer, **the designated secondary interrogation officer**, if any, and all persons present during the interrogation and shall be advised whether the interrogation will be audio recorded. When a formal statement is being taken, questions directed to the Officer under interrogation shall **first** be asked by the

designated primary interrogator. Unless both parties agree, no more than two members of IPRA or IAD will be present in the interview room during questioning. A secondary interrogator may participate in the interrogation, provided that the secondary interrogator shall be present for the entire interrogation. The secondary interrogator will not ask any questions until the primary interrogator has finished asking questions and invites the secondary interrogator to ask questions. Generally, the secondary interrogator will ask follow-up questions for clarification purposes. The primary interrogator will not ask any questions until the secondary interrogator has finished asking questions and invites the primary interrogator to ask follow-up questions.
(bold in original contract text)

Translation:

Before the interrogation begins, the officer-as-suspect is to be informed of the identities (i.e. name) of: (a) the person leading the investigation; (b) the primary interrogating officer; (c) the secondary interrogating officer; (d) and any and all persons present during the interrogation.

An officer-as-suspect will be told whether or not audio will be recorded of the interrogation prior to the beginning of the interrogation.

Unless the interrogators and the officer-as-suspect agree otherwise, only two members of the interrogation team can be present in the room during an interrogation of an officer-as-suspect.

If there are two interrogators present, the primary interrogator and secondary interrogator cannot ask questions at the same time of the officer-as-suspect. And the secondary interrogator is to ask questions primarily of a follow-up nature. The secondary interrogator is to be asked by the primary interrogator to participate in the questioning.

Highlight #4 - Article 6.1.F (Bill of Rights - Conduct of Disciplinary Investigation)

Contract Language:

The length of interrogation sessions will be reasonable, with reasonable interruptions permitted for personal necessities, meals, telephone calls and rest.

Translation:

Officers are to be given breaks during the interrogation period for personnel necessities (i.e. bathroom/restroom breaks), meals, telephone calls and rest.

Highlight #5- Article 6.1.G (Bill of Rights - Conduct of Disciplinary Investigation)

Contract Language:

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An Officer under interrogation shall not be threatened with transfer, dismissal or disciplinary action or promised a reward as an inducement to provide information relating to the incident under investigation or for exercising any rights contained herein. The Department shall not retaliate in any manner against any Officer covered by this Agreement who cooperates in a Department disciplinary investigation.

Translation:

An officer cannot be threatened by an interrogator with the threat of transfer, dismissal, another disciplinary action, or a potential reward for providing information during an interrogation.

Highlight #5- Article 6.1.H (Bill of Rights - Conduct of Disciplinary Investigation)

Contract Language:

An Officer under investigation will be provided with a copy of any and all statements he or she has made that are audio recorded or in writing within seventy-two (72) hours of the time the statement was made. In the event a re-interrogation of the Officer is required within the seventy-two- (72-) hour period following the initial interrogation, the Officer will be provided with a copy of any prior statements before the subsequent interrogation.

Translation:

Officers will be given copies of any and all statements that s/he has made during an interrogation or as a part of an investigation within 72 hours of the time the statement was given.

If the officer is re-interrogated within the initial 72 hour period, the officer must be given copies of the original interrogation prior to another interrogation beginning.

Highlight #5- Article 6.4 (Photo Dissemination)

Contract Language:

No photo of an Officer under investigation shall be made available to the media prior to a conviction for a criminal offense or prior to a decision being rendered by the Police Board, except where required by law.

Translation:

The City cannot release the photograph of an officer to the public unless the City is required to by law.

Highlight #5- Article 6.7 (Polygraph)

Contract Language:

No Officer shall be disciplined for refusal to take a polygraph exam and the results of the polygraph exam shall not be admissible as evidence in proceedings before the Police Board or in any proceeding where the Officer may appeal to the Police Board,

unless by Illinois or Federal Court decision or statute, such evidence shall become admissible before the Police Board.

In the event that the results of a polygraph exam become admissible as evidence before the Police Board and the Department determines a polygraph exam is necessary, the complainant will be requested to take a polygraph exam first. If the complainant refuses to take a polygraph exam, the accused police Officer will not be requested to take a polygraph exam. If the complainant takes the polygraph exam and the results indicate deception, the accused Officer may be requested to take a polygraph exam covering those issues wherein the examiner determines that the complainant is truthful.

When the polygraph is used, the accused member will be advised twenty-four (24) hours prior to the administering of the test, in writing, of any questions to which the Department will request an answer.

Translation:

Officers cannot be disciplined for refusing to take a lie-detector test (i.e. polygraph exam) and if an officer does take a polygraph exam, the findings of the polygraph exam are not admissible in proceedings unless so ordered by a court of law or a statute.

If the officer is required to undertake a polygraph exam, then the person who filed the complaint against the officer must also take a polygraph exam. If the person who filed a complaint against the officer refuses to take a polygraph exam, then the officer will not be required to take a polygraph exam.

Highlight #5- Article 8.4 (Use and Destruction of File Material)

Contract Language:

All disciplinary investigation files, disciplinary history card entries, IPRA and IAD disciplinary records, and any other disciplinary record or summary of such record other than records related to Police Board cases, will be destroyed five (5) years after the date of the incident or the date upon which the violation is discovered, whichever is longer, except that not sustained files alleging criminal conduct or excessive force shall be retained for a period of seven (7) years after the date of the incident or the date upon which the violation is discovered, whichever is longer, and thereafter, cannot be used against the Officer in any future proceedings in any other forum, except as specified below, unless the investigation relates to a matter which has been subject to either civil or criminal court litigation or arbitration prior to the expiration of the five (5) year period. In such instances, the Complaint Register case files normally will be destroyed immediately after the date of the final arbitration award or the final court adjudication, unless a pattern of sustained infractions exists.

Any information of an adverse employment nature which may be contained in any unfounded, exonerated, or otherwise not sustained file, shall not be used against the

Officer in any future proceedings. Information contained in files alleging excessive force or criminal conduct which are not sustained may be used in future disciplinary proceedings to determine credibility and notice.

A finding of "Sustained — Violation Noted, No Disciplinary Action" entered upon a member's disciplinary record or any record of Summary Punishment may be used for a period of time not to exceed one (1) year and shall thereafter be removed from the Officer's disciplinary record and not used to support or as evidence of adverse employment action. The Department's finding of "Sustained — Violation Noted, No Disciplinary Action" is not subject to the grievance procedure.

Reprimands and suspensions of one (1) to five (5) days will stay on the Officer's disciplinary history for a period of three (3) years from the last date of suspension or date of reprimand, or five (5) years from the date of the incident, whichever is earlier.

Information relating to a preventable traffic accident involving a Department Vehicle may be used and/or considered in determining future discipline for a period of time not to exceed two (2) years from the date of such preventable traffic accident and shall thereafter not be used and/or considered in any employment action provided there is no intervening preventable traffic accident involving a Department Vehicle and if there is, the two-year period shall continue to run from the date of the most recent preventable traffic accident and any prior incidents may be used and/or considered in employment actions. In no event shall any prior incident five (5) or more years old be used and/or considered.

Translation:

The personnel files of officers cannot permanently contain information related to discipline that an officer has received including oral reprimands, written reprimands, suspensions, demotions or disciplinary transfers. In other words, if an officer is disciplined, it will be destroyed and removed from the personnel file of an officer on a given timeframe.

The disciplinary record or summary of discipline will be destroyed 5 years from the date of the incident or the date on which the City was made aware of the violation, whichever is longer.

If an officer is accused of criminal conduct or excessive force and it is deemed "not sustained" as in, it has not been proven to have happened by an applicable standard, then the allegation will be removed 7 years from the date of the incident or the date on which the City became aware of the incident, whichever is longer. Not sustained allegations of criminal conduct or excessive force can be used in future disciplinary proceedings.

If an allegation is "Sustained – Violation Noted, No Disciplinary Action" which means that the officer in question is deemed to have violated a rule/law but no disciplinary

action was given, this record will be removed from the officer's personnel file for a period not to exceed 1 year but could be removed before the 1 year period.

Records of suspensions of 1 to 5 days will be removed from an officer's personnel file three years from the last date of suspension or reprimand OR five years from the date of the incident, whichever is earlier. In other words, if a reprimand is given in 2000 for an incident that occurred in 2000, then the reprimand remains on the file for 5 years. If a reprimand is given in 2002 for an incident that occurred in 2000, it would remain on the officer's personnel file for 3 years.

If an officer is in preventable traffic accident (i.e. car accident in which the officer's actions could have mitigated the accident), a record of this accident will remain in the officer's file for two years and if the officer is not involved in another preventable traffic accident within this timeframe then the initial record is removed. If an officer continues to engage in preventable traffic accidents, incidents outside of a five-year timeframe cannot be referenced.

Highlight #5- Appendix T.C (Drug And Alcohol Testing)

Contract Language:

Effective upon ratification, in any instance where an Officer discharges his/ her weapon, whether on or off duty, the Officer shall submit to drug and alcohol testing at the direction of the Internal Affairs Division or any superior authority. If the Officer has discharged his/her weapon off duty and the test reveals the presence of alcohol, the Department shall not discipline the Officer based solely on the results of the alcohol test when the Officer's actions are consistent with the Department's use of force guidelines.

Translation:

Each officer who discharges his/her weapon either on or off duty will submit to drug and alcohol testing.

If the officer shoots his/her weapon while off-duty and is found to have been drinking, or is drunk, then the officer will not necessarily be disciplined if the shooting is in accordance with the Department's Use of Force guidelines.