



Lowell Police Department

Office of the Superintendent of Police

50 Arcand Drive

Lowell, Massachusetts 01852



Edward F. Davis III
Superintendent

September 14, 1995

GENERAL ORDER NO. 95-08

SUBJECT: Policy and Procedure regarding Sick Leave, Injury In line-of-Duty

- I. **PURPOSE:** To update existing policy regarding sick leave, line-of-duty injury and the procedures which must be followed by all personnel in the event of its occurrence. This General Order supersedes General Order No. 92-01, dated April 27, 1992.
- II. **POLICY:** It shall be the policy of the Lowell Police Department to require uniform compliance from all its personnel with the procedures set forth in this Order. Special attention is directed to the new section entitled "Recovery for Injuries..." Certain ramifications of Massachusetts General Law, Chapter 41, Sections 100 and 111F have recently been ignored by some police officers. It is incumbent upon all officers to adhere to the provisions of these sections when attempting to recover by legal means for injuries sustained "...while acting in the performance and within the scope of his (or her) duty..."
- III. **AUTHORITY:** Authority for the following procedures derives, in part, from Massachusetts General Laws, Chapter 41, Sections 100 and 111f, addressing indemnification of police officers for line-of-duty injuries payment of related expenses and injury leave pay. City of Lowell Codes, Chapter 15, Sections 51 through 62, "Sick Leave," are also the foundations of this Order.
- IV. **PROCEDURE:** The following procedures shall be strictly adhered to by all department personnel applying for benefits under City Code, Chapter 15, Sections 15-51 through 15-62, and Sections 100 and 111F of Chapter 41, Massachusetts General Laws, as amended.
 - A. Injured on Duty:

Reporting Requirements: Whenever an officer, on duty or while traveling to a duty assignment, receives an injury, regardless of its severity, the

officer shall, as soon as practicable, notify the "on duty" Commanding Officer/Officer in Charge and submit a thorough and complete report detailing the nature of the injury, the mechanism or circumstances surrounding the incident which led to the injury, the names of any witnesses and the officer's personal physician, along with any medical specialist(s) to whom the officer may have been referred. This report shall be submitted through the Commanding Officer or Officer in Charge to the Superintendent of Police.

1. The Commanding Officer/Officer in Charge shall, immediately upon receiving notification that an officer has sustained an injury on duty, institute a complete investigation into the circumstances surrounding the incident. Upon completion, the Commanding Officer/Officer in Charge shall forward the findings of said investigation to the Superintendent of Police.
2. Should the officer return to duty after treatment or continue working and subsequently realize that he/she is unable to accomplish assigned duties, the officer shall:
 - a. If on duty, immediately notify his/her Commanding Officer/Officer in Charge.
 - b. If off duty, notify the Detail Officer, if working, or the on duty Commanding Officer/Officer in Charge at least one (1) hour prior to the start of the officers next duty assignment. Said notification may be made by the officer or by some responsible person.

Any member of the department who fails to comply with the above described procedures shall, by this omission, place his/her eligibility for benefits in serious jeopardy.

B. Investigation into Injury:

Whenever the Commanding Officer/Officer in Charge is notified that an officer under his or her command has sustained an injury while on duty or traveling to a duty assignment, the Commanding Officer shall immediately assign a Superior Officer to conduct a thorough investigation into the circumstances surrounding the incident which resulted in the injury.

1. The Superior Officer assigned to conduct an investigation into an officer's injury shall take all necessary actions to determine the causal factors leading to the officer's injury.

2. Upon completion of the investigation, the assigned Superior Officer shall forward to the Commanding Officer/Officer in Charge a complete report detailing his or her findings.
3. The Commanding Officer/Officer in Charge shall review all reports for completeness and accuracy and forward them, along with his/her findings and recommendations, to the Superintendent of Police.

C. Legal Opinion:

After reviewing all submitted reports relating to any injury sustained by any member of the department specifically covered by the Worker's Compensation Law or any other compensatory statutes in operation with city government, the Superintendent shall, before approving payment, obtain an opinion from the City Solicitor as to whether or not the member is entitled to the benefits requested, in compliance with Section 15-56, of the Code of the City of Lowell. The opinion rendered by the City Solicitor, on a case by case basis, shall be final and binding upon the employee.

D. Recovery for On-Duty Injuries:

According to Chapter 41, Sections 100 and 111F, Massachusetts General Laws, a police officer may attempt to recover by legal means in a court of competent jurisdiction for injuries suffered "...while acting in the performance and within the scope of his (her) duty without fault of his (her) own." When a member of this police department initiates a third party law suit under the conditions, the officer shall inform the City Solicitor's office in writing, immediately upon initiation of such claim. The officer shall submit the required letter of notification to the office of the Superintendent of Police. It will then be forwarded to the City Solicitor's office.

Any sums recovered under these sections of the law "...shall be for the benefit of the city ... making such payment(s) (leave pay, medical expenses) unless the sum is greater than such payment(s), in the event the excess shall be retained by ... the person so injured."

Failure to make notification as mandated herein shall result in disciplinary measures taken against the officer.

V. Sick Leave:

- A. Whenever an officer, as a result of illness or injury sustained while off-duty, is incapable of performing his or her assigned duties, the officer shall notify the Detail Officer, if working, or the on-duty Shift Commander at least one hour prior to the start of the officer's next tour of duty. Said notification may be made by the officer or by some responsible person.
- B. Said report of absence due to illness or off-duty injury shall include the nature of the illness/injury and the probable length of absence, if known.
- C. In accordance with the Code of the City of Lowell, the Superintendent of Police may:
 - 1. require an officer claiming sick leave benefits to provide a doctor's certificate. When requested, said certificate shall be made available to the Superintendent within forty-eight (48) hours.
 - 2. assign a Superior Officer to visit a member receiving sick leave benefits for more than three (3) consecutive days and make a report of the findings.
 - 3. request the city physician, or any other physician designated by the Superintendent, to conduct an investigation into sick leave absences which extend beyond six (6) consecutive working days and report his findings.
- D. If an investigation into a sick leave claim results in a finding that an employee fraudulently reported illness or off-duty injury in order to secure benefits of sick leave with pay, the employee shall be penalized by losing all rights to sick leave for a period of one year from that date, plus whatever accrued sick leave may be at that time be held to his or her credit, in accordance with Section 15-58, the Code of the City of Lowell.
- E. Employees who refuse to submit to a doctor's exam for the purpose of determining a claim for sick leave or bodily injury shall not be entitled to sick leave benefits, in accordance with Section 15-61, the Code of the City of Lowell.
- F. Whenever it is deemed necessary by the Superintendent or his designee, a superior officer shall be sent to check on employees who call in sick. If an officer is not at home when the superior officer checks his/her residence, a

report will be submitted by the superior officer to the Superintendent stating the particulars and the officer calling in sick will be carried as absent without pay pending receipt of a physician's certificate at the detail office.

- G. Department heads may, whenever they see fit, require from any employee claiming sick leave benefits a doctor's certificate sustaining the claim or may call upon the city physician to make an investigation and report, in accordance with Section 15-53 the Code of the City of Lowell.
- H. If an officer uses up more than 33% of his/her annual sick leave allotment (five days), follow-up visits including reports, will be conducted by the Employee Assistance Program (EAP)/Wellness officer at the officer's residence if requested by the Superintendent of Police or his designee. Note-personal days shall not count as sick days in this percentage assessment.
- I. Periodic sick leave reports will be submitted by the detail officer to individual commanding officers highlighting possible sick leave abusers. Commanding officers are expected to analyze these reports and to take whatever corrective action is deemed necessary. Note-personal sick days will not be included in these periodic reports submitted by the detail officer.

VI. Return to Duty:

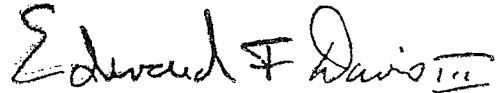
Whenever an officer has recovered completely from an illness or off-duty injury or when the city physician or a physician designated by the City determines that an officer injured in the line of duty is physically fit to resume the full range of assigned duties, the officer shall report in person or by telephone, or arrange to have a responsible person report, to the Detail Officer or the on-duty Shift Commander not later than two hours prior to reporting to his/her next tour of duty.

- A. If after such report is made, the employee is unable to report back to work due to illness, then he/she shall follow the initial procedure established under paragraph B-1 of this General Order.
- B. Any employee not adhering to the above requirements may, at the discretion of the Superintendent of Police, be carried as absent without pay or charged an additional sick day by being carried on the sick list until the following work period, depending upon existing circumstances.

Conclusion: Because state statute and city ordinance govern the administration of sick leave and line of duty injury benefits, strict compliance is mandated. This General Order does not contain an exhaustive listing of the ordinance or the statute. Officers are well advised to acquaint themselves with the sources in their entirety.

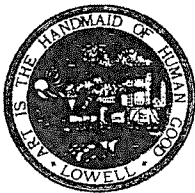
Commanding Officers/Officers in Charge of platoons and bureaus, as well as the Deputy Superintendent and Detail Officer, shall be responsible and accountable for ensuring compliance with this order.

Per Order:

A handwritten signature in black ink that reads "Edward F. Davis, III". The signature is written in a cursive style with a horizontal line at the end.

Edward F. Davis, III
Superintendent of Police

Distribution "A"
Operations Manual



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To: All Employees (Sworn and Civilian)
From: Superintendent Kenneth Lavallee *KL*
Subject: Addendum to G.O. 95-08
Date: January 8, 2009

Effective immediately, the following addendum will be incorporated into General Order 95-08 entitled "Policy and Procedure regarding Sick Leave, Injury In Line-of-Duty."

Section VII. Absenteeism

The status of an employee being categorized absent is not an acceptable and/or recognized reason for an employee not reporting to work. Absent status shall not be misconstrued as having the same benefits of utilizing "sick time", which allows for the care of a family member who is ill.

Whenever an employee has not yet earned or has exhausted accumulated sick time and a situation arises where the employee makes notification that they cannot come into work, the existing personnel database automatically defaults and the employee is indicated as being absent. In the event this occurs, it is mandated that the following steps be taken.

- 1) The supervisor who makes the electronic entry into the existing personnel database must immediately make notification to the employee's commanding officer indicating the employee's absentee status.*
- 2) The employee shall be required to provide medical documentation for each day of absence. The medical documentation shall coincide with the date of the absence, be signed by a physician, and shall be presented to their commanding officer forthwith upon returning to work.*
- 3) Once the employee's commanding officer receives the information, he/she is required to submit a written report to the Superintendent of Police. The commanding officer's report will outline a review of the employee's absence and steps taken to address the matter. The report will also contain any available medical documentation.*



Superintendent of Police



4) This addendum does not pertain to any employee who has been granted time off pursuant to the Family Medical Leave Act.

5) Violations of the criteria set forth within this Section may result in discipline up to and including termination.

Distribution: All LPD employees
Attached to G.O. 95-08