

issue of whether an officer in fact participated in a prohibited action shall be subject to the grievance and arbitration procedure.

5.5 Judicial Restraint and Damages

Nothing contained herein shall preclude the Employer from obtaining judicial restraint and damages in the event of a violation of this Article.

ARTICLE VI

GRIEVANCE PROCEDURE

It is the intent and purpose of the parties to use their individual and collective best efforts to settle and resolve their differences on a prompt and informal basis. Where such informal efforts are successful or unsuccessful in resolving a grievance, the resolution or non-resolution of the matter will be reduced to writing with a copy to the grievant, the PBPA and forwarded to the respective Deputy Chief or the Chief, or his secretary, if applicable. The following procedures will be employed where informal resolution was not accomplished.

6.1 Grievance Defined

A grievance is a dispute or difference of opinion raised by the PBPA, by an individual officer, or by a group of officers (with respect to a single common issue) covered by the terms hereof, involving the meaning, interpretation or application of the express provisions of this Agreement.

6.2 Procedure

The formal procedure for resolving grievances between the parties shall be:

Step 1: Any officer with or without a PBPA representative or the PBPA may take up a grievance or dispute in writing with his immediate non-bargaining unit supervisor within twelve (12) calendar days of the date when either the officer or the PBPA became aware or should have become aware of the occurrence giving rise to the grievance. Any grievance not filed within such time limits shall be deemed to be waived. If there is no immediate non-bargaining unit supervisor below the rank of Deputy Chief, the officer or the PBPA shall submit

the grievance directly to Step 2. The supervisor shall give his written answer within seven (7) calendar days of filing of the grievance. In this context and throughout the provisions of this grievance procedure, the term “days” shall be construed to mean calendar days unless otherwise specified.

Step 2: If the grievance remains unsettled after Step 1, and the grievant appeals, stating the reasons for rejecting the answer at Step 1, the grievance shall be presented in writing to the appropriate Deputy Chief of the Department or his designee within seven (7) days of the Employer’s Step 1 response. The Deputy Chief shall attempt to adjust the grievance and shall respond in writing to the grievant with his decision within seven (7) days of the submission to Step 2.

Step 3: If the grievance remains unsettled, and the grievant appeals, stating the reasons for rejecting the answer at Step 2, the grievance shall be presented in writing to the Chief of the Department within seven (7) days of the Step 2 response. The Chief or his designee shall attempt to adjust the grievance by meeting with the grievant and shall respond with his written decision to the grievant within seven (7) days of the submission to Step 3.

Step 4: If the grievance remains unsettled, and the grievant appeals, stating the reasons for rejecting the answer at Step 3, the grievance shall be submitted in writing to the Mayor of the City of Springfield within seven (7) days of the Step 3 response. The Mayor or his designee shall attempt to adjust the grievance and shall respond with his written decision within seven (7) days of the submission to Step 4.

If the grievant is not satisfied with the decision at Step 4, he may exercise whatever legal rights he may have to seek arbitration as set forth in this Article or as provided by law.

6.3 Arbitration

If the grievance is not settled in accordance with the foregoing procedure, the PBPA may, by written notice to the Employer, refer the grievance to binding arbitration within ten (10) calendar days after the receipt of the Step 4 response. The parties shall attempt to agree upon an arbitrator within five (5) calendar days after receipt by the Employer of the notice of referral. In the event that the parties are unable to agree upon an arbitrator within such five (5) days, they shall immediately jointly request the American Arbitration Association

or the Federal Mediation and Conciliation Service to submit a panel of seven (7) arbitrators. In the event that the parties are unable to agree upon an arbitration service, then said service shall be selected upon a toss of a coin. Either party may reject one (1) entire panel. Each party shall have the right to strike two (2) names from the panel using the alternate striking method, and the remaining person shall be the arbitrator. The order of striking shall be determined by a coin toss. The arbitrator shall be notified of his selection by a joint letter from the Employer and the PBPA requesting that he set a time and place, subject to the reasonable availability of the Employer and the PBPA. All arbitration hearings shall be held in the City of Springfield, Illinois, unless the parties mutually agree otherwise.

6.4 Arbitrator's Authority

The arbitrator shall act in a judicial, not legislative capacity and shall have no right to amend, modify, nullify, ignore, add to or subtract from the provisions of this Agreement. He shall only consider and make a decision with respect to the specific issue submitted, and shall have no authority to make a decision on any other issue not so submitted to him. In the event that the arbitrator finds a violation of the terms of this Agreement, he shall fashion an appropriate remedy. The arbitrator shall be without power to make a decision contrary to or inconsistent with the law or rules and regulations having the force and effect of law. The arbitrator shall submit his written decision within ninety (90) days of the close of the hearing or the submission of briefs by the parties, whichever is later, unless the parties agree to a written extension thereof. The decision shall be based solely upon his interpretation of the meaning or application of the express terms of this Agreement to the facts of the grievance presented. A decision rendered consistent with the terms of this Agreement shall be final and binding.

6.5 Arbitrator's Decision

The decision of the arbitrator may be enforced, at the insistence of either party or of the arbitrator, in the Circuit Court for Sangamon, County, Illinois. The commencement of a new fiscal year after the initiation of arbitration procedures under this Agreement, but before the arbitrator's decision, or its enforcement, shall not be

deemed to render a dispute moot, or to otherwise impair the jurisdiction or the authority of the arbitrator or the Circuit Court or the decision of either. At any time the parties may by mutual written agreement amend or modify an arbitrator's decision. The arbitrator's decision shall be reviewable by the Circuit Court only for the reasons that the arbitrator exceeded his authority or that the order was procured by fraud, corruption or other similar or unlawful means. The pendency of such proceedings for review shall not automatically stay the order of the arbitrator.

6.6 Grievance Processing

If either party fails to answer or appeal a grievance, or an answer thereto, within the time limits specified herein, the grievance shall immediately be deemed to have moved to the next step up to Step 3 (Chief's level). If at Step 3 the Chief does not respond within the time limits prescribed herein, then for the purposes of appeal the Employer's failure to respond shall be deemed a denial of the grievance. Thereafter, if a grievance is not appealed to the next step, (Step 4 or arbitration) within the time limits set forth or during a mutually agreed written extension, the grievance shall be deemed settled on the basis of the Employer's last answer. The Parties shall make every effort to comply with the time periods in this article.

6.7 Arbitration Costs

The fee and expenses of the arbitrator and the associated costs of the court reporter and the arbitrator's transcript, if any, shall be borne by the losing party. Each party shall be responsible for the cost of any written transcript which it orders.

6.8 Grievance Meetings

The PBPA shall be afforded the opportunity to be present at all grievance meetings concerning grievances not filed by the PBPA; and any settlement made shall not be inconsistent with the Agreement. If the PBPA believes any such settlement to be inconsistent with the Agreement, it may file a grievance.

6.9 Service of Grievances and Responses

(A) All grievances to be filed and processed at the various steps by the PBPA shall be served upon the representative of the Employer designated at each respective step of the grievance procedure. In the event that a particular Employer representative is unavailable or cannot be located, the PBPA may serve and process grievances at any step by personally serving the non-bargaining unit supervisor designated as in charge of the Employer's operations at that time.

(B) All responses from the Employer to the PBPA at each respective step of the grievance procedure shall be personally served on the President of the PBPA. In the event that the President is unavailable or cannot be located, the Employer shall personally serve the Vice-President, the Secretary, or the Treasurer of the PBPA.

(C) Parties shall designate alternate representatives for service and receipt of grievances in the event the foregoing are unavailable.

(D) Time limits expressed in the grievance procedure shall be calculated from the dates of personal service.

6.10 Expedited Grievance Processing

Irrespective of all other provisions of this Article, the PBPA shall have the option of initiating any grievance at the step or level at which the applicable decision originated or arose from. Such option to be exercised only by mutual agreement and advance notice between the PBPA and the Chief of Police, or the Chief's designee in his absence. The intent and purpose of this Section is to expedite the process in appropriate cases, for example, if the decision made or mandate issued originated with the Chief of the Department, the PBPA may bypass Steps 1 and 2 and initiate the grievance at Step 3 with the Chief.