



International Association of Chiefs of Police

*Pregnancy & Policing:
A New Policy Makes Them
More Compatible*
October 2010



Presentation Sponsored by the Diversity Coordinating Panel

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The Importance of Women in Law Enforcement

- Women's communication skills help defuse violent situations
- Women excel in demonstrating empathy in stressful, dangerous situations
- Women are less likely to be accused of having used excessive force
- Women are part of the community fabric

Source: Nat'l Ctr. For Women & Policing, "Hiring & Retaining More Women: The Advantages to Law Enforcement Agencies," 2003

Discrimination Exists

- Women in law enforcement are often discriminated against when they choose parenthood through pregnancy
- Complaints based on pregnancy made to EEOC were up 23% in 2006, compared to 1997
- EEOC says that “women should never be forced to choose between motherhood and their livelihood”

Continuing Obstacles for Women in Law Enforcement

- Inadequate facilities and equipment
- Sexual harassment
- Challenges to family responsibilities
- Role conflict
- Self doubt about competence re: male norms are in place
- Inadequate maternity policies

Goal of the Diversity Coordinating Panel With This Project

- To eliminate discrimination in the law enforcement profession
- To share information and explore ways to insure equal employment opportunities for women in law enforcement who become pregnant
- To insure that women stay with the profession and reach career goals on an equal footing with male colleagues

Discriminatory Policies

- Policies limited to “on-duty” injuries “strongly suggest an intent to discriminate against women who are pregnant or have pregnancy-related conditions...”
- Those that have a disparate impact on women, even if unintentional
- Those that automatically exclude women from working regular duty from the onset of pregnancy, *e.g.* for “fetal protection”

[Equal Treatment]

- Does not lead to equal results
- Does not account for specific gender differences that cannot be “similar”
- Does not surmount stereotypes
- Only women are penalized by not accommodating pregnancy so results in *unequal* outcomes for some women

[Stereotypes]

- Common presumption that pregnant female is physically incapable of performing police functions from the moment of conception
- Result = Requirement to report pregnancy and immediately relinquish full-duty status and/or commence leave
- *Example:* Bryan County Sheriff case

Results of Stereotypes – No Accommodation Policies

- Exhaustion of leave time and FMLA entitlement before delivery
- Loss of seniority, leave earnings, impact on other benefits (health, pension)
- Diminished respect from colleagues
- Decline in skills, personal morale
- *Agencies are unable to retain women officers*

Results of Stereotypes – Modified Duty Policies

- Possible disadvantages of light-duty:
 - Loss of ancillary privileges – off-duty employment, use of agency equipment
 - Unable to maintain training status, State certification
 - Unable to compete for promotion
 - Negative impact on productivity for performance evaluation

[Equal Results Model]

- To achieve real equality in the workplace employers must make changes and be flexible enough to accommodate the “celebrated” differences between men and women –
U.S. v. Virginia, 518 U.S. 515 (1996)
- Expectant mothers should be provided with realistic and adequate employment benefits to retain their professional status

Different Treatment Leads to Equal Results

- Does not compel light-duty until medically necessary – not a “presumption” of pregnancy
- Makes light-duty available when medically necessary
- Defers some training/exposure requirements
- Preserves seniority status

[Different Treatment]

- Provide maternity uniforms and equipment, as appropriate
- Have adequate paid maternity leave
- Job sharing and flex time
- Return to full-duty when medically able
- Base employment status on objective medical criteria, not emotions or stereotypes

IACP Policy Center Asked to Develop New Policy

- 1996 Model Policy included pregnancy under “Light-Duty”
- Not well known or used
- Did not account for disparate impact of light duty assignments
- Insufficient to meet current needs

[Purpose]

“The goal of this policy is to provide options that allow for an officer to remain working in a full-time capacity and performing full-duty assignments, in combination with alternative-duty assignments, for as long as reasonably possible.”

[Policy Goals]

Encourages agencies to recognize that its diverse workforce is a valuable asset and that trained and experienced female police officers are a critical resource. Pregnancy is a temporary physical condition, unique to women, which may or may not affect an employee's ability to perform many of the usual duties of her job classification.

IACP Model Policy

- Recognizes the evolving stages of pregnancy
- Encourages agencies to keep women working as long as possible
- Is based on medical criteria instead of stereotypes
- Helps prevent Title VII liability

IACP Model Policy

- Recognizes that pregnancy is a unique, transient physical condition that may or may not temporarily disable a woman
- Employee must return to full-duty when medically cleared
- Analysis based on the actual physical requirement of the job

[Policy]

This policy establishes procedures to modify full-duty assignments and, when needed, provide temporary, alternative-duty assignments if and when medically indicated.

[Notification]

- For public safety and management planning purposes, an officer who becomes pregnant shall notify the chief law enforcement executive...
- *Compare to Settlement Agreement in Prater v. Detroit Police Dept. – No disclosure requirement*

[Full-Duty Option]

- Avoid assignments that include:

- (1) likelihood of encountering toxic chemicals,
- (2) intensive traffic enforcement,
- (3) high likelihood of suffering trauma

[Maternity Duty]

- Option made available sometime during second trimester when medically indicated (or at earlier point if medically indicated)
- *Detroit* settlement permits employee to decide when “restrictive”-duty is needed

Maternity Duty Option

Maternity duty may consist of, but is not limited to, the following:

- (1) Non-hazardous assignments
- (2) Writing police reports
- (3) Operating a police radio
- (4) Interviewing persons
- (5) Clerical functions

Maternity Duty Option

Recommend avoiding the following:

- (1) Alternating shift work
- (2) Defensive tactics
- (3) Firearms training, except simulated training
- (4) Patrol duties
- (5) Extensive exposure to automobile exhaust fumes
- (6) Standing for more than 30 minute intervals
- (7) Lifting of more than 25 pounds
- (8) Exposure to high concentrations of toxins

[Firearms Qualification]

During the officer's pregnancy, the agency should seek a temporary exemption from firearms qualification requirements or arrange for alternative firearms qualification

Avoid Discriminatory Impact

- *Detroit* case: Maternity duty shall not affect terms and conditions of employment
- Maternity duty or pregnancy leave “shall not affect an officer’s opportunities” for:
 - Transfers, promotions
 - Court overtime
 - Longevity pay
 - “Banking” leave time

References

- IACP National Law Enforcement Policy Center, *Pregnancy Policy*, March 2010
- *Pregnancy & Policing: Are They Compatible? Pushing the Legal Limits on Behalf of Equal Employment Opportunities*, 22 *Wisc. Women's Law J.* 61 (2007)
- *Pregnancy Policy: Law & Philosophy*, *The Police Chief*, March 2006, available at: <http://www.policechiefmagazine.org>.