

LABOR RELATIONS

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MUNICIPAL POLICE INSTITUTE, INC.

LABOR RELATIONS



MUNICIPAL POLICE INSTITUTE, INC.

DEALING DIRECTLY WITH EMPLOYEES

- DON'T BY-PASS UNION
- MANDATORY BARGAINING



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OKAY IF NOT BARGAINING RELATED

- SICK LEAVE SURVEY ILLEGAL



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MOTIVATION IRRELEVANT

- PURPOSE OR EFFECT COUNTS



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IMPORTANT POLICY EXCEPTION?

- NOT LIKE ONE-OFFICER VEHICLES
- IMPACT REQUIRED BARGAINING



WAIVER?

- *FAIT ACCOMPLI*
- SHORT TIME TO BID FOR SHIFTS
- BID VS. IMPLEMENTATION DATE?
 - JANUARY 19 IMPLEMENTATION
 - JANUARY 9 BID DATE



OPERATIONAL AND EMERGENCY DECISION- MAKING



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EMERGENCY EXCEPTION?

- NOT (M)ANY CASES



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AFFECTING EMPLOYMENT CONDITIONS

- NOTICE
- OPPORTUNITY TO REQUEST BARGAINING
- GOOD FAITH NEGOTIATIONS
- AGREEMENT OR IMPASSE



HOW TO ANALYZE WHAT'S REQUIRED

- CHECK CONTRACT
- IF NOT (AND NO “ZIPPER CLAUSE”)
 - TIMELY REQUEST?



NOTIFY “UNION”

- PROPOSED CHANGES
- GRIEVANCE HEARINGS
 - *WEINGARTEN* RIGHTS
 - ATTORNEY IF SENT
 - LIMIT #?



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HIRING AND CREATING POSITION

- NOT “CONDITIONS FOR HIRE”
 - DRUG/ALCOHOL TESTING
 - RESIDENCY
- DON'T TRANSFER B.U. WORK
- DON'T' CARRY OVER INTO EMPLOYMENT



CONDITION OF CONTINUED EMPLOYMENT

- PSYCHOLOGICAL TESTING
 - RESULTS KNOWN AFTER START WORK



CREATE VS. ELIMINATE?

- OKAY TO CREATE NEW POSITION
- OK TO SET HIRING CRITERIA
- DON'T EVADE UNION
 - ELIMINATE B.U. POSITION
 - CREATE NON-B.U. POSITION



RECOMMENDATIONS

- EVALUATE CANDIDATE FULLY
- DON'T HIRE PREMATURELY
- ADA ISSUES
 - CONDITIONAL OFFERS OF EMPLOYMENT
 - MEDICAL/PSYCHOLOGICAL EXAMS
- UNION MAY CONSENT TO OTHER “CONDITIONAL” HIRING



WAIVERS

- INACTION
- CONTRACTUAL



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WAIVER BY INACTION

- ACTUAL KNOWLEDGE
- OPPORTUNITY TO NEGOTIATE
- UNREASONABLY OR INEXPLICABLY FAILED TO REQUEST OR BARGAIN
- BURDEN ON EMPLOYER
- NON INFERRED W/O “CLEAR AND UNMISTAKABLE” SHOWING



NOTICE

- PROVIDE TO “UNION”
- IMMEDIATE NOT REQUIRED
- PROVIDE DEADLINE



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COVERED/BARRED BY CONTRACT?

- NOT IF COVERED
- CONSCIOUSLY
 - EXPLORED AND
 - YIELDED



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FAIT ACCOMPLI

- DEMAND TO BARGAIN “FRUITLESS”?
- NEVER SAY, “EFFECTIVE IMMEDIATELY”



WAIVER BY CONTRACT

- CLEAR LANGUAGE
- BURDEN ON EMPLOYER
- NOT BROAD GENERAL MANAGEMENT RIGHTS CLAUSE
- AMBIGUOUS LANGUAGE?
 - REVIEW BARGAINING HISTORY



WORKPLACE RULES AND PRACTICES

- OK TO CHANGE
 - NOTICE, OPPORTUNITY, ETC.
- MORE THAN PROCEDURAL
- OK TO REWORD EXISTING PRACTICE



HOURS

- MANDATORY SUBJECT
- ELIMINATING TARDY “GRACE” PERIOD
- CHANGING LUNCH HOURS
- ELIMINATING “FLEX-TIME”
- CHANGE WHEN REPORT TO COURT
- CHANGE SHIFT SWAP POLICY
- LENGTH OF WORK DAY OR WEEK
- NOT TIME CLOCK W/O OTHER CHANGE
- OK TO “VIDEO SURVEY”



RECOMMENDATIONS

- KEEP FLSA IN MIND
- DON'T SPECIFY SHIFT TIMES IN CONTRACT
 - “USUAL”
 - “CUSTOMARY”
 - “TYPICAL”
- SPECIFY HOW TO CHANGE



OVERTIME AND PAID DETAILS

- ONLY “REGULARLY SCHEDULED OT” IS MANDATORY SUBJECT
- REDUCE MINIMUM STAFFING PRACTICE
 - #F.F. ON ENGINES/LADDERS AT STATIONS
- DON'T CHANGE COMP TIME W/O NOTICE & OPPORTUNITY TO BARGAIN



PAID DETAILS

- MANDATORY
- OK TO PRIORITIZE
 - IF PAST PRACTICE – NO BARGAINING REQUIRED
- SEPARATE UNION PROBLEMS
 - SUPERVISORY EXCLUDED?



WORK SHIFTS AND SCHEDULES

- NEW SHIFT REQUIRES NOTICE ETC.
- SAME IF ELIMINATE SHIFT OR COVERAGE
- OKAY TO CHANGE INDIVIDUAL'S SCHEDULE
 - W/O UNION NOTICE UNLESS PRACTICE
- REQUIRING TEACHERS TO TEACH EXTRA PERIOD W/O PAY
 - MOST INVOLVE UNION



JOB DESCRIPTIONS AND WORK ASSIGNMENTS

- BARGAIN BEFORE CHANGING JOB DESCRIPTION
 - EXCEPT *DE MINIMIS*
- ASSIGNMENT IS MANAGEMENT RIGHT
- BOSTON COMMISSIONER (BEFORE 1999 AMENDMENT)
 - APPOINT & PROMOTE
 - SUPERCEDED CONTRACT
 - BARGAINING PROCEDURES ONLY



PROMOTION

- BARGAIN IF
 - TO UNIT POSITION
 - TO NON-UNION POSITION
 - SO LONG AS PAST PRACTICE OR CONTRACT CLAUSE APPLIES
 - OKAY TO CONTINUE PAST PRACTICE, EVEN IF NOT FORMAL
 - PROVIDE REASONS ON REQUEST
 - BARGAINING ELIMINATION OF POSITION



RECOMMENDATION

- REJECT SENIORITY CRITERIA PROPOSALS
- PROVIDE NOTICE OF AVAILABLE POSITIONS
- ASSESSMENT CENTERS “BULLETPROOF”



DRESS AND GROOMING

- CONSTITUTIONAL RULES
 - FED & STATE
- NOT ARBITRARY OR IRRATIONAL



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MANDATORY SUBJECTS

- NOTICE & OPPORTUNITY BEFORE MAKING CHANGE
- GROOMING & UNION PINS SAME
 - TATTOO'S, BEARDS, HAIR COLORING, ETC.



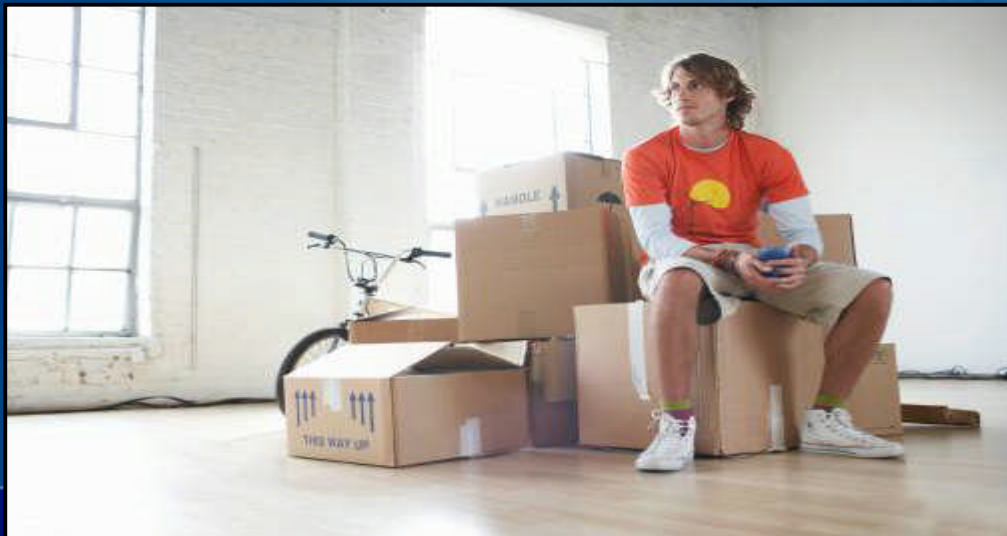
RECOMMENDATIONS

- RULES – OK
- CHANGES – OK
- UNWRITTEN RULES – OK
- GIVE OPPORTUNITY TO COMPLY BEFORE ENFORCING



RESIDENCY REQUIREMENTS

- CONSTITUTIONAL
- CAN'T MOVE OUT OF TOWN



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RECOMMENDATIONS

- USE COMMON SENSE
- AVOID DISCIPLINE
- REFUSE “BID” NEGOTIATION REQUESTS



WEAPONS

- MANAGEMENT RIGHT
 - DON'T JEOPARDIZE SAFETY
- BARGAIN CHANGES
- “BARRED”
FEDERALLY/STATE



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RECOMMENDATIONS

- DOMESTIC VIOLENCE ISSUES
- DON'T ALLOW “CARRY ON BADGE”
- CLARIFY JOB DESCRIPTION



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OFF-DUTY EMPLOYMENT

- OK TO REGULATE
 - BAN
 - APPROVAL
 - NOTICE



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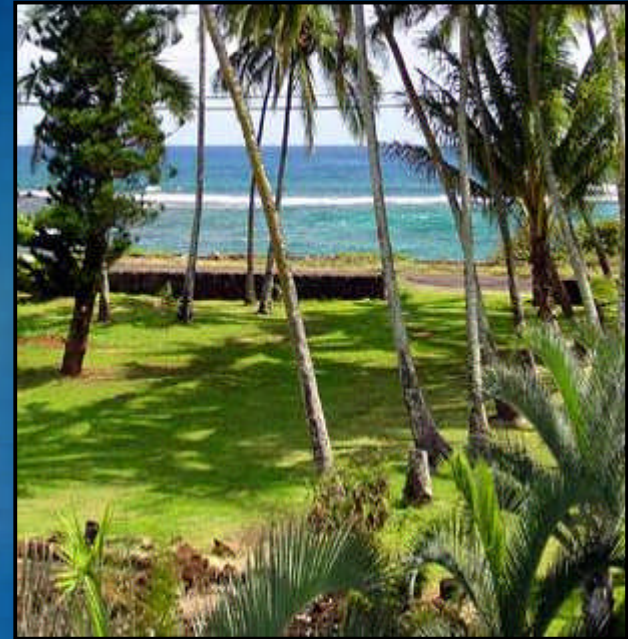
NON-SMOKING RULE

- BANNING IN WORKPLACE
 - MUST BARGAIN
 - NO PUBLIC HEALTH HAZARD EXCEPTION
- APPLICABLE STATE LAW?



VACATIONS

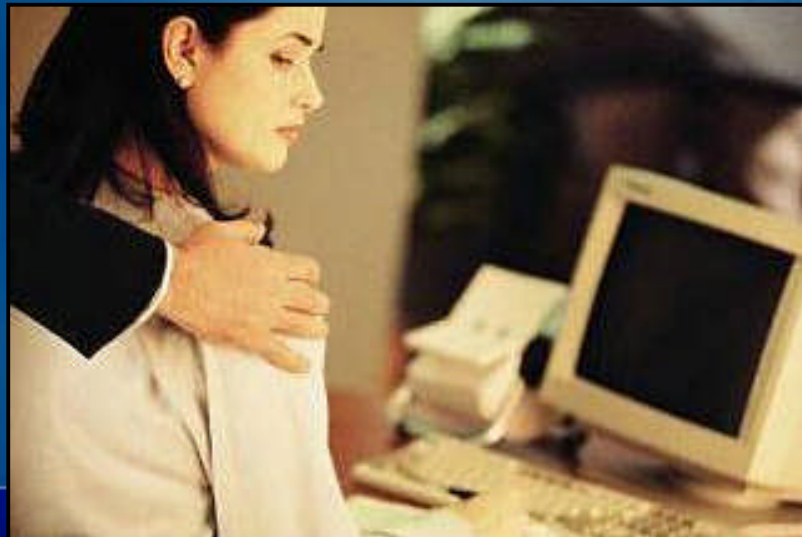
- MANDATORY
- RARELY A CASE
 - CONTRACT COVERS
 - ARBITRATION HANDLES



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SEXUAL HARASSMENT POLICY

- MANDATORY SUBJECT
 - IMPACT
- EVEN THOUGH STATE LAW



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SHIFT SWAPS

- CRITERIA IS MANDATORY SUBJECT
- WANT EMT-I ON ALL SHIFTS ?
 - BARGAIN IMPACT



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DOMESTIC VIOLENCE POLICY

- MANDATORY SUBJECT
- REPORTING
REQUIREMENT
- DISCIPLINE
- PROMOTION
CONSIDERATION



RADIO PROCEDURES

- MANDATORY SUBJECT
 - STANDARDS OF PERFORMANCE
 - CONDITION OF CONTINUED EMPLOYMENT



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WAGES

- MANDATORY SUBJECT
 - EVEN ENTRY-LEVEL
- CHANGING PAYMENT SCHEDULE
 - BI-WEEKLY, ETC.
- PARITY CLAUSES ILLEGAL
- PENSIONS, SEVERANCE PAY, INSURANCE, AND EDUCATION INCENTIVES ARE ALL “WAGES”



MEAL AND COFFEE BREAKS

- FLSA REQUIRES PAY FOR BREAKS
 - UNLESS 30 MIN W/O DUTIES
- CAN'T WAIVE OR BARGAIN AWAY
- OK TO RESCHEDULE BREAKS W/O BARGAINING(?)



LEAVES OF ABSENCE

- BARGAIN BEFORE CHANGE
- DOCTOR NOTES REQUIRE BARGAINING
 - EXCEPT DURING “SICK-OUT”
- LIGHT DUTY
- REPORTING FORMS OK W/O BARGAINING
- STAY-HOME RULE OK



FAMILY & MEDICAL LEAVE ACT

- 1250 HOURS LAST YEAR
- SICK SELF OR FAMILY
 - BIRTH/ADOPTION
- UNPAID
- REQUIRE VACATION, SICK, ETC.
- CONSECUTIVE OK
- NO BENEFITS OR SENIORITY
ACCRUE



TAKE-HOME VEHICLES

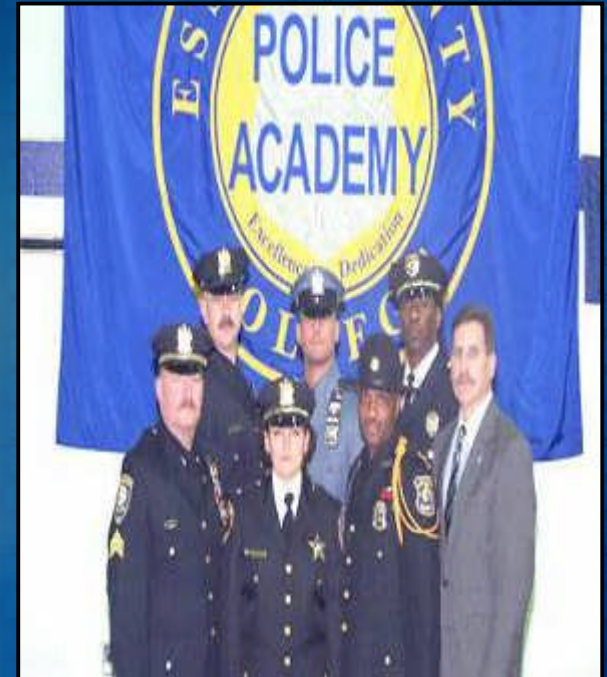
- MANDATORY SUBJECT
 - CAN'T DISCONTINUE W/O NOTICE, ETC.
- CHIEF EVER UTILIZED DISCRETION?



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RECRUIT ACADEMY FEES

- PRE-EMPLOYMENT AGREEMENT OK
 - NOT IF PAY BACK AFTER WORKING



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INCREASES UNDER EXPIRED CONTRACT

- NOTICE, ETC. BEFORE CHANGES STATUS QUO
- NO INCREASES UNLESS PAST PRACTICE
 - STEPS OR LONGEVITY BONUS



BICYCLE PATROLS

- MANDATORY SUBJECT
RE: IMPLEMENTATION
- JOB DUTIES,
WORKLOAD & SAFETY,
& ASSIGNMENTS



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BULLET RESISTANT VESTS

- MANDATORY SUBJECT
- NOTICE, OPPORTUNITY, ETC. BEFORE MANDATE WEARING (ALL THE TIME)



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EMPLOYEE PERFORMANCE



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PERFORMANCE EVALUATIONS

- MANDATORY SUBJECT
 - STANDARDS FOR EVALUATION
 - BASIS FOR PROMOTION
- NOT IF NO NEW CRITERIA



TESTING

- MANDATORY
 - EXCEPT IN CRIMINAL INVESTIGATIONS
- PSYCHOLOGICAL – APPLICANTS ONLY



DRUG & ALCOHOL TESTING

- MANDATORY
 - EXCEPT APPLICANTS
- PROBABLE CAUSE FOR EMPLOYEES
- CAN'T WAIVE EMPLOYEE'S RIGHTS
- POLYGRAPH'S ILLEGAL
 - EXCEPT CRIMINAL INVESTIGATIONS



DISCIPLINE

- MANDATORY SUBJECT
- COMMUNITY APPEARS BOARD OK
 - ADVISORY ONLY
- NOT RETALIATORY



PROPORTIONAL DISCIPLINE

- CAREFUL RE: UNION OFFICERS



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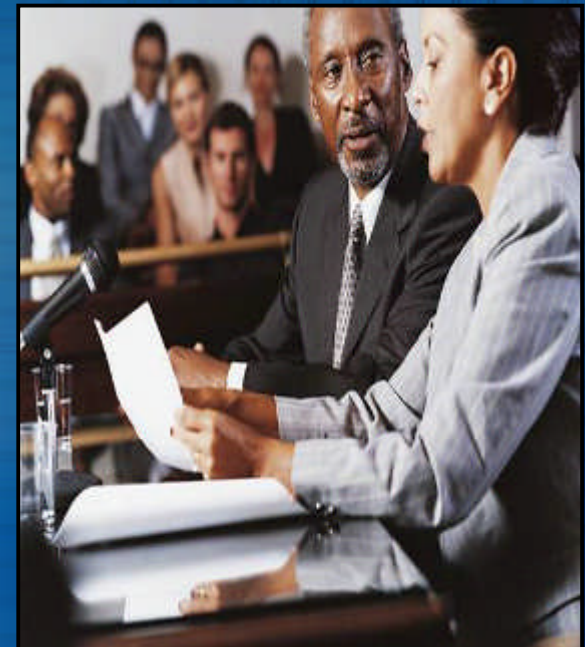
WEINGARTEN RULE

- INVESTIGATORY INTERVIEW
- REASONABLE EMPLOYEE
- DISCIPLINE MIGHT RESULT
- UNION BUDDY
 - ATTY. MAY BE BUDDY



NO RIGHT TO COUNSEL

- *FEDERAL CURT RULE*
 - NOT ENTITLED TO HAVE AN ATTORNEY PRESENT DURING AN INTERNAL INVESTIGATION



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ROLE OF UNION REPRESENTATIVE

- NOT PASSIVE OBSERVER
- NOT CROSS EXAMINE WITNESSES



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