

WORKERS COMPENSATION AND SECTION 207-C  
OF THE GENERAL MUNICIPAL LAW  
NASSAU COUNTY SHERIFF'S DEPARTMENT POLICY

1. The purpose of this Agreement is to enable the NASSAU COUNTY SHERIFF'S DEPARTMENT (hereinafter referred to as the DEPARTMENT) and the SHERIFF OFFICERS ASSOCIATION, INC. (hereinafter referred to as ShOA) to resolve disputed cases of illnesses or injuries (physical or mental) resulting from incidents which reportedly occurred while Correction Officers were performing their official police/peace officer duties pursuant to the laws of NY State. Section 207 (c) of the General Municipal Law requires a due process hearing to resolve such disputes.

However, the Sheriff and or his designee may exercise their discretion and deem that an injury or illness whether physical or mental resulting from an incident to be considered 207 (c) status immediately following said incident. If said illness or injuries are disputed by the Sheriff or his designee then the parties wish to resolve these disputes in a prompt, fair and equitable manner and consequently have agreement that these issues in dispute may be resolved through the use of an employee option to utilize an independent medical consulting service and/or arbitration in lieu of the above stated due process hearings.

52. Issues which shall be affected and/or determined by the use of an independent medical facility are as follows:
  1. Whether a physical illness or injury (physical or mental) suffered by a Correction Officer was incurred in the Performance of his/her duties.
  2. Whether a current illness or injury (mental or physical) is a reoccurrence or aggravation of a prior illness or injury (mental or physical), which occurred in the performance of police/peace duties.
  3. Whether a Correction Officer incurred an illness or injury (mental or physical) as the result of the performance of police/peace duties has sufficiently recovered and is physically and mentally able for either temporary limited duty assignments or full duty. For the purpose of this Agreement, the hearing officer or medical consulting service shall determine temporary limited duty.
3. The Department may dispute the validity of a Correction Officer's original illness or injury incurred in the performance of police/peace duties, as set forth in paragraph 2 (a) above, within 30 calendar days of the date the department is notified of said illness or injury. Said Correction Officers may elect to have the dispute resolved at a due process hearing conducted pursuant to General Municipal Law Section 207(c) or by an independent arbitrator selected pursuant to Section 20-1.4 of this Agreement. In addition, at the request of either the Department or ShOA, such employee may be required to submit on a timely basis to designated medical consulting service described hereafter for a full medical evaluation; the result of said medical evaluation shall be submitted into evidence at the arbitration proceeding or 207 (c) hearing established to resolve the casual connection dispute. The decision of the arbitrator or hearing officer designated to conduct the arbitration or the 207(c) hearing shall be final and binding on the Department and the Correction Officer with respect to the issue of casual connection. The cost of the arbitrator's fee and his expenses shall be paid by the County of Nassau.
4. In cases where a Correction Officer alleges a recurrence or aggravation of a prior line-of-duty injury as set forth in paragraph 2(b) above, which is disputed by the Department, said Correction Officer may elect to have the dispute resolved at a due process hearing conducted pursuant to General Municipal Law Section 207 (c) or by the medical consulting service described herein. The decision of the hearing officer designated to conduct 207 (c) hearing or the medical consulting service shall be final and binding on the Department and the Correction Officer.
5. In disputed cases where the Department believes that a Correction Officer who has been out of work as

a result of a prior line-of-duty injury or illness (mental or physical) is capable both physically and/or mentally of performing either temporary limited duties or full duties as set forth in paragraph 2 8 above, the Correction Officer may elect to have the dispute resolved at a due process hearing conducted pursuant to General Municipal Law Section 207 8 or by the medical consulting service described herein. The decision of the hearing officer designated to conduct the 207 (c) hearing or the medical consulting service shall be final and binding on the Department and Correction Officer.

6. Within 48 hours after notification by the Department to the member and ShOA of the existence of a disputed injury or illness as described in paragraphs 3, 4, 5, the Correction Officer, or ShOA acting on his behalf, must select an option. If a Correction Officer, or ShOA acting on his behalf, fails to select an option within the required time frame, the Department may proceed with a hearing as provided for under Section 207 (c) of the General Municipal Law. Appointments with the medical consulting service must be scheduled within seven (7) calendar days following the selection by the Correction Officer. A Correction Officer, upon written request, shall be granted a delay in the scheduling of such appointment for the purpose of securing medical reports as described in paragraph 10. The parties agree, however, that such Correction Officer must submit to an examination within fourteen (14) calendar days of the date the dispute arose, unless he/she can clearly demonstrate that he/she undertook all reasonable efforts to obtain the relevant medical records, in which case such Correction Officer must submit to an examination within twenty-eight (28) calendar days of the date the dispute arose.
7. The provisions of this Agreement shall be fully set forth and incorporated in the collective bargaining agreement currently in existence between the Department and ShOA. It is expressly agreed by all parties that any pending and future dispute as set forth in paragraph 2 above shall be resolved in accordance with the terms of this Agreement.
8. The use of a medical consulting service shall be established by separate letter agreement, the terms of which shall coincide with the time periods of collective bargaining agreement. The medical facilities being utilized to carry out the intent of this Agreement may be changed at any time with the consent of both parties signatory to this Agreement. If the parties are unable to agree on the selection of a medical facility, then the parties shall select an arbitrator pursuant to Section 20-1.4 of this Agreement. At the arbitration of the issue, both parties shall submit the names of qualifications of those medical facilities located in Nassau or Suffolk Counties. The arbitrator shall conduct a hearing and make a determination regarding the selection of the facility to be utilized during the existing term of the collective bargaining agreement.
9. The medical consulting service shall determine an employee's inability or fitness to perform temporary limited duty or full duty and whether such condition is of a temporary or permanent nature. If the condition is considered to be of a limited duration, then the medical consultant shall establish a date for that officer's re-evaluation. The Department shall assign officers limited to restricted duty-to-duty assignments consistent with said restrictions. Disputes concerning restricted duty assignments shall be resolved in an expedited basis by an arbitrator to be agreed upon mutually by both parties.
10. Medical consultants, prior to making their determination, shall receive copies of the employees' diagnostic reports, x-rays, lab reports, hospital reports, and such other clinical evidence as the parties may deem relevant which could enable the consultants to render their own objective determination. Records may deem relevant unilaterally submitted to the medical consultant. All records shall be first be screened at a joint meeting of the representative of both parties who will then forward said documents to the medical consulting service.
11. The Department agrees to retain all Correction Officers subject to such medical disputes as described in paragraph 2 (c) on full pay, line-of-duty injury status 207 (c) until such date as decision is rendered by the hearing officer, arbitrator or medical consultant. The parties agree, however, that if the Department prevails on the issue the Correction Officer shall be transferred from 207 (c) to Workers' Compensation status effective the date the decision is rendered or the 15<sup>th</sup> calendar day after the dispute arose, whichever occurs sooner. However, in the event the medical consultant does not render a decision on or before the 15<sup>th</sup> calendar day after the dispute arose, through no fault of the employee, including the procurement of medical documentation or statements, the transfer from 207 (c) to Workers' Compensation status shall be effective the date of the decision.
12. The Department agrees that upon a favorable determination to the Officer stemming from a dispute described in paragraphs 2 (a) and 2 (b), the Correction Officer shall be credited with line-of-duty illness or injury status

retroactive to the date of said illness or injury or recurrence of same.

13. Following the return to work by a Correction Officer in a limited or restricted duty capacity, the effect of which subsequently may render the Officer incapable of performing limited or restricted duty, the Officer shall be re-examined by the medical consultant service provided that the Officer presents to the Department at his/her own expense a detailed report from a medical doctor specifying that changes that occurred in the Officer's condition since his/her prior examination by the medical consultant service and how such changes have resulted in deterioration of the condition. The parties agree that the Officer shall remain on Workers' Compensation status whole out of work and be changed with a reduction of such leave accruals during the pendency of this re-examination period. Should the Officer be found unfit for limited duty upon re-examination due to the line-of-duty injury or illness, then his/her sick leave deductions shall be restored retroactive to the date the Department was notified by the physician of the change in condition.
14. The independent Medical Facility (I.M.F.) shall set forth a time period when the employee shall again be re-evaluated. The Department Medical Investigation Unit (M.I.U.) may re-evaluate the employee within one-month of the date set by the I.M.F.
15. Re-evaluation by the Department M.I.U. may be included in the package sent to the I.M.F. for subsequent re-evaluation, but may not change the employee's current status.
16. Sheriff's Department personnel will continue to schedule appointments with the I.M.F.
17. The Office of Labor Relations shall continue to act as the liaison in setting internal medical disputes between the Association and the Department.
18. Presumptions. The presumptions contained in this section are specifically intended to benefit the claimant and ease the Burden of presenting and establishing a compensable claim.
  - a. In the absence of substantial evidence to the contrary, it is presumed that an accident, which occurs in the course of the employment, also has arisen out of the employment.
  - b. In the absence of substantial evidence to the contrary, it is presumed that sufficient notice was given to the employer within thirty (30) days after the accident, illness or death.
  - c. In the absence of substantial evidence to the contrary, it is presumed that the injury was not caused by the willful intention of the injured employee to bring about the injury or death of himself/herself or of another.
  - d. In the absence of substantial evidence to the contrary, it is presumed that the injury did not result solely from intoxication of the injured employee while on duty.
19. All other presumptions, benefit and/or limitations contained in the Workers' Compensation, both positive and negative, and all liens of Workers' Compensation, shall apply to the procedure outlined in this Agreement.
20. The County of Nassau shall take no retaliation against nor terminate, discipline or take any other negative employment action against any employee who avails himself/herself of the procedure as outlined above regarding compensation for an on the job injury.