

Public Safety Labor News

Index

January - December 1996

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<i>The ADA</i>		
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<i>Affirmative Action</i>		
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<i>Compensation</i>		
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DESCRIPTION	CASE CITATION	ISSUE
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Cost of living increases in pension protected by Constitution.	<i>Calabro v. City of Omaha</i> , 531 N.W.2d 541 (Neb. 1995)	February
Deferred Compensation		
New federal legislation on age discrimination, insurance for disabled employees, deferred compensation.	No case citation.	December
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No obligation to assign officers susceptible to blackouts to light duty.	<i>Beal v. Board of Selectmen of Hingham</i> , 4 AD Cases 482 (Mass. 1995)	February
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Arbitrator overturns suspension, rejects claim for attorney's fees.	<i>City of San Antonio</i> , LAIG 5095 (Helburn, 1995)	February
Officer makes wrong tactical decision in avoiding pre-disciplinary hearing.	<i>State ex rel Lupo v. City of Wentzville</i> , 886 S.W.2d 727 (Mo.App. 1994)	March
"Helpful, employee-friendly alternative to discipline" held to be punitive.	<i>City of Pullman and Pullman Police Officers' Guild</i> , Case No. 11535-A-95-1163 (Wash. PERC 1995)	April
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Captain who encouraged a fight between minors in front yard subject to discipline.	<i>Eilers v. Civil Service Commission of City of Burlington</i> , 544 N.W.2d 463 (IowaApp. 1996)	November
Discharge of fire chief overturned because not imposed within ninety days of incident.	<i>Goodridge v. Ypsilanti Board</i> , 529 N.W.2d 665 (Mich. 1995)	March
Twenty-day suspension and placement on probationary status not too harsh.	<i>Vinton v. Bratton</i> , 623 N.Y.S.2d 233 (A.D. 1995)	April
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No liability for negligent internal affairs investigation.	<i>Olive v. City of Scottsdale</i> , 10 IER Cases 1467 (D.Ariz. 1995)	January
Off-duty domestic dispute leads to police officer's discharge.	<i>City of St. Petersburg</i> , 104 LA 594 (Thornell, 1995)	March
Discrimination		
Washington DC discriminates against firefighter's handlebar mustache	<i>Kennedy v. District of Columbia</i> , 654 A.2d 847 (D.C.App. 1995)	March
Appeals court upholds \$290,000 judgment in favor of Hispanic police officer.	<i>Palanco v. City of Austin</i> , 70 FEP Cases 653 (5th Cir. 1996)	July
New federal legislation on age discrimination, insurance for disabled employees, deferred compensation.	No case citation.	December
Drug Testing		
No reasonable suspicion for drug test.	<i>City of Texas City</i> , 104 LA 535 (Allen, 1995)	January

DESCRIPTION	CASE CITATION	ISSUE
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Improper drug testing of firefighter leads arbitrator to award attorney fees against employer.	<i>Vandenburg Air Force Base</i> , 106 LA 107 (Feldman, 1996)	July
City cannot require sergeant with shoulder injury to submit to psychological and drug tests.	<i>City of Monmouth, Illinois and Fraternal Order of Police, Lodge 265</i> (Wolff, 1995)(unreported decision)	July
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No property right in moonlighting job.	<i>Cybulski v. Cooper</i> , 891 F.Supp. 68 (D.Conn. 1995)	June
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Florida bill of rights does not give deputies property rights to job.	<i>Brown v. Wheeler</i> , 669 So.2d 318 (Fla.App.1996)	October
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North Carolina corrections officers have property, liberty rights in job.	<i>Penland v. Long</i> , 922 F.Supp. 1085 (W.D.N.C. 1996)	December
Firefighters have no right to due process in promotions.	<i>Andreucci v. City of New Haven</i> , 916 F.Supp. 146 (D.Conn. 1996)	September
No right to dues deduction in Missouri.	<i>West Central Missouri Regional Lodge No. 50 v. Board of Police Commissioners of Kansas City, Missouri</i> , 916 S.W.2d 889 (Mo.App. 1996)	November
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Sections of Rhode Island bill of rights do not apply in sensitive investigation in small town.	<i>In re Sabetta</i> , 661 A.2d 80 (R.I. 1995)	June
Equal Protection		
No equal protection violation to have different disciplinary procedures for police officers and sheriff's deputies.	<i>Currans v. Linn County Civil Service Commission</i> , 540 N.W.2d 469 (IowaApp. 1995)	August
Fair Representation		
Duty of fair representation does not apply in pension board or court cases.	<i>Chicago Fire Fighters Union Local 2</i> , 18 NPER IL-26132 (Ill. LLRB 1995); <i>Newark Firemen's Union, Inc.</i> , 18 NPER NJ-26186 (N.J. PERC Dir. 1995)	July
Fair Share System		
When and how public sector unions can collect dues from non-members.	<i>Prescott v. County of El Dorado</i> , 915 F.Supp. 1080 (E.D.Cal. 1996)	September
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Fire department can undo suspensions in order to avoid FLSA liability.	<i>Schaal v. Anne Arundel Fire Department</i> , 131 Labor Cases ¶33383 (D.Md. 1996)	November
Settlement pays officers for report preparation time.	Reported in <i>The Labor Beat</i> , published by Carroll, Burdick & McDonough (August 1996)	December

DESCRIPTION	CASE CITATION	ISSUE
Shift differential, longevity, and education incentive must be included in overtime rate under the FLSA.	<i>Featsent v. City of Youngstown</i> , 2 WH Cases2d 1697 (6th Cir. 1995)	April
Police lieutenants, captains and division chiefs entitled to overtime.	<i>Carpenter v. City and County of Denver</i> , 131 Labor Cases ¶13387 (10th Cir. 1996)	October
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Dispute over demonstration on assault weapons ban comes to close.	<i>Donaggio v. Arlington County, Va.</i> , 880 F.Supp. 446 (E.D.Va. 1995)	January
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No constitutional right for police officer to participate in NRA events wearing police insignia.	<i>Thomas v. Whalen</i> , 10 IER Cases 869 (6th Cir. 1995)	February
Criticism of employee assistance program protected by First Amendment.	<i>Watters v. City of Philadelphia</i> , 10 IER Cases 1121 (3rd Cir. 1995)	February
Fire Chief's opposition to paramedic cuts constitutionally-protected speech.	<i>Beckwith v. City of Daytona Beach Shores, Florida</i> , 58 F.3d 1554 (11th Cir. 1995)	April
Fire department rule requiring prior permission to speak publicly held unconstitutional.	<i>Spain v. City of Mansfield</i> , 915 F.Supp. 919 (N.D.Ohio 1996)	September
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Encouraging officers to break chain of command not protected speech.	<i>Acevedo v. City of Muskogee</i> , 897 P.2d 256 (Okla. 1995)	May
Firefighter's "generalities" do not amount to protected speech.	<i>Larkin v. Town of West Hartford</i> , 891 F.Supp. 719 (D.Conn. 1995)	June
Speech while on duty in uniform has less protection.	<i>Moore v. City of Wynnewood</i> , 56 F.3d 924 (10th Cir. 1995)	July
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Health Insurance		
New federal legislation on age discrimination, insurance for disabled employees, deferred compensation.	No case citation	December
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Sick leave use on day after Thanksgiving nullifies holiday pay.	<i>City of Louisville, Ohio</i> , 104 LA 1096 (Coyne, 1995)	March
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Employer retains right to unilaterally change hours of work.	<i>Commonwealth of Massachusetts, Department of Corrections and Massachusetts Corrections Officers' Federated Union</i> , LAIG 5184 (Fraser, 1996)	September
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Missouri court finds <i>Garrity</i> immunity automatic, polygraphs admissible in disciplinary proceedings.	<i>Gardner v. Missouri State Highway Superintendent</i> , 901 S.W.2d 107 (Mo.App. 1995)	April
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Alabama city only obliged to indemnify police officer to extent of tort claim limits.	<i>Benson v. City of Birmingham</i> , 659 So.2d 82 (Ala. 1995)	March
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DESCRIPTION	CASE CITATION	ISSUE
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No constitutional right for corrections officer to marry inmate and keep job.	<i>Keeney v. Heath</i> , 10 IER Cases 1185 (7th Cir. 1995)	April
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Montana supreme court invalidates ban on moonlighting.	<i>Wadsworth v. State of Montana</i> , 911 P.2d 1165 (Mont.1996)	October
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Arbitrator overrules other arbitrator's decision.	<i>City of Oak Park and Oak Park Public Safety Officers Association</i> , LAIG 5171 (Tanzman, 1995)	August
Police lieutenants, captains and division chiefs entitled to overtime.	<i>Carpenter v. City and County of Denver</i> , 131 Labor Cases ¶133387 (10th Cir. 1996)	October
Short telephone call at home does not merit callout pay.	<i>City of Wilmington, Delaware and Fraternal Order of Police, Lodge 1</i> , LAIG 5155 (Seltzer, 1995)	August
Entries in notebook sufficient to establish that sergeant worked overtime hours.	<i>Oliver v. Layrison</i> , 3 WH Cases2d 316 (E.D. La. 1996)	October
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Kentucky pension calculations should not include sick leave, vacation payoff.	<i>Covington v. Board of Trustees</i> , 903 S.W.2d 517 (Ky. 1995)	April
Inconsistent arbitrators' decisions upheld.	<i>Kirby v. City of Philadelphia</i> , 905 F.Supp. 222 (E.D. Pa. 1995)	September
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Discharged firefighter cannot file claim for pension in Arkansas.	<i>Daley v. City of Little Rock</i> , 892 S.W.2d 254 (Ark. 1995)	January
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City correctly turns down request for personal leave to chaperone son's trip to Yellowstone.	<i>City of Sandusky</i> , 104 LA 897 (Keenan, 1995)	February
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Peace officer bill of rights does not prohibit giving polygraph examinations to transfer applicants.	<i>Los Angeles Police Protective League v. City of Los Angeles</i> , 10 IER Cases 1182 (Cal. 1995)	January
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Wyoming deputies may not be discharged for political reasons.	<i>Lucero v. Matthews</i> , 901 P.2d 1115 (Wyo. 1995)	April
Ban on political activities by fire and police employees struck down.	<i>Goodman v. City of Kansas City</i> , 906 F.Supp. 537 (W.D.Mo. 1995)	August
Right To Privacy		
Asking police officer if he is a swinger may go too far.	<i>Hughes v. City of North Olmsted</i> , 894 F.Supp. 1120 (N.D.Ohio 1995)	May
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Threats against coworkers justify compulsory psychological examination.	<i>Flynn v. Sandahl</i> , 10 IER Cases 1187 (7th Cir. 1995)	June
Married paramedics lose challenge to nepotism law.	<i>Waters v. Gaston County</i> , 57 F.3d 422 (4th Cir. 1995)	July
Dispatcher has no claim that department illegally monitored telephone calls.	<i>Griffin v. Milwaukee</i> , 11 IER Cases 560 (7th Cir. 1996)	July
Constitutional protection given to officer who had affair with secretly-married dispatcher.	<i>City of Sherman v. Henry</i> , 910 S.W.2d 542 (Tex.App. 1995)	August
Pre-employment polygraph questions about sex with chickens and religious preferences violate privacy rights of police and fire applicants.	<i>Woodland v. City of Houston</i> , 11 IER Cases 847 (S.D.Tex. 1996)	September
Financial history questions ruled invasion of privacy.	<i>AFGE v. United States</i> , 11 IER Cases 1126 (D.D.C. 1996)	October
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Supreme Court rules in favor of state trooper in defamation case; rejects ACLU position.	<i>Richmond v. Thompson</i> , (Unpublished decision; copies available from the Labor Relations Information System)	November

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Sexual Harassment		
Sexual harassment rules do not require completely sanitized workplace.	<i>DeAngelis v. El Paso Municipal Police Officers' Association</i> , 51 F.3d 591 (5th Cir. 1995)	March
Sexual harassment does not constitute protected speech.	<i>Trayling v. Board of Fire and Police Commissioners</i> , 652 N.E.2d 386 (Ill.App. 1995)	June
Shift Scheduling		
Employer has management right to change from fixed to rotating shifts.	<i>Village of North Palm Beach and Palm Beach Police Benevolent Association</i> , LAIG 5179 (Sergeant, 1996)	September
Sick Leave		
Only that time when pregnant officer actually disabled charged against sick leave.	<i>City of Stamford, Connecticut and Stamford Police Association</i> , LAIG 5192 (Meredith, 1996)	September
Deer hunting trip during sick leave does not deprive police officer of rights to vacation later.	<i>City of Erie</i> , LAIG 5115 (McDaniel, 1995)	August
Smoking		
Maryland Supreme Court upholds comprehensive smoking regulations.	<i>Fogle v. H & G Restaurant, Inc.</i> , 654 A.2d 449 (Md. 1995)	January
Solicitation Of Funds		
Employer may not regulate police association's solicitation campaign.	<i>Chester County</i> , 18 NPER PA-27077 (Pa. LRB ALJ 1996)	September
Termination		
Firefighter follows psychologist's advice, loses job.	<i>City of Santa Cruz, Cal.</i> , 104 LA 661 (Pool, 1995)	January
Police officer with appeal rights cannot successfully claim he is an at-will employee.	<i>Larson v. City of Tomah</i> , 10 IER Cases 1165 (Wis. 1995)	February
Officer not terminated for reporting FLSA violations.	<i>Blocker v. Terrell Hills City</i> , 900 S.W.2d 812 (Tex.App. 1995)	June
Transfers		
Fire chief retains discretion to make transfers to specialized units.	<i>City of Cincinnati and Local 48, International Association of Fire Fighters</i> , 106 LA 697 (Stanton, 1996)	December
Tuition Reimbursement		
Educational leadership program not job-related for purposes of tuition reimbursement.	<i>City of Detroit</i> , 4 LA 603 (Brown, 1995)	March
Congress changes tuition reimbursement rules (again).	No case citation.	October
Unfair Labor Practices		
Fire commissioner's comments not unfair labor practice.	<i>Appeal of City of Portsmouth</i> , 667 A.2d 345 (N.H. 1995)	August
Union Matters		
Internal union matters not covered by state labor laws.	<i>Fraternal Order of Police</i> , 18 NPER FL-26182 (Fla. PERC Gen. Counsel 1995)	February
Vagueness		
Statute prohibiting cancellation of traffic tickets not unconstitutionally vague.	<i>Bustamante v. DeBaca</i> , 895 P.2d 261 (N.M.App. 1995)	March
Vehicles		
Arbitrator gives take-home cars back to police officers.	<i>City of Kansas City, Kansas</i> , 104 LA 710 (Bailey, 1995)	February
Veterans' Rights		
Veterans' rights under federal law.	<i>Uniformed Services Employment and Reemployment Rights Act of 1994</i> , 38 USC §4301 et seq. October 13, 1994	May
Wages		
Recruits can be paid at lower rate during extended academy.	<i>Cleveland Police Patrolmen's Assoc.</i> , LAIG 5160 (Brown, 1995)	August
Workers' Compensation		
Injuries suffered while commuting to work compensable under workers' compensation laws.	<i>Lavine v. Brevard County Sheriff's Department</i> , 658 So.2d 1044 (Fla.App. 1995)	April
Injury suffered while training for physical fitness test compensable under workers' compensation laws.	<i>Kidwell v. Workers' Compensation Appeals Board</i> , 39 Cal. Rptr.2d 540 (Cal.App. 1995)	May
Firefighter not officially retired until all accrued leave exhausted.	<i>City of Clearwater v. Carpentieri</i> , 659 So.2d 357 (Fla.App. 1995)	May
Deputies entitled to sick, vacation and holiday accruals while on disability leave.	<i>Trumbull County Sheriff's Department</i> , 105 LA 545 (Nelson, 1995)	June

DESCRIPTION	CASE CITATION	ISSUE
Disabled firefighters not entitled to wage increases.	<i>City of Madison and International Association of Fire Fighters, Local 311, 95-1 ARB. ¶5166 (Dichter, 1995)</i>	July
Tripping over own dog does not result in compensable injury.	<i>City of Beverly and Beverly Police Benevolent Association, LAIG 5177 (Fink, 1996)</i>	September
Firefighter's knee condition not job-related.	<i>Coleman v. Board of Trustees of New York City, 638 N.Y.2d 165 (A.D. 1996)</i>	October
Getting up out of chair can cause compensable injury.	<i>City of Memphis, LAIG 5186 (Hulse, 1996)</i>	October
<i>Working Conditions</i>		
Requiring officers to complete "cleanliness checklist" for cars violates past practice.	<i>Portsmouth Police Commission and Local 402, IBPO, LAIG 5197 (Stutz, 1996)</i>	December