

NEGOTIATED AGREEMENT

BETWEEN

NATIONAL INSTITUTES OF HEALTH

AND

FRATERNAL ORDER OF POLICE (FOP)

LODGE # 1

THE FEDERAL SERVICE

LABOR MANAGEMENT RELATIONS STATUTE

TITLE VII

THE EFFECTIVE DATE OF THIS AGREEMENT IS: 7-19-99

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PREAMBLE

This Agreement is made by and between the National Institutes of Health, Department of Health and Human Services, hereinafter called the "Employer," and the Fraternal Order of Police (FOP), Lodge #1, hereinafter referred to as the "Union," and collectively referred to as the "Parties."

It is the intent and purpose of both Parties to the Agreement:

- (1) to promote and improve the efficient administration of the National Institutes of Health and the major role it plays in the advancement of biomedical research and the nation's health, and the well-being of employees within the meaning of the Federal Service Labor-Management Relations Statute;

to establish and foster a basic understanding of personnel policies, procedures and practices, and matters affecting the conditions of employment; and

to provide a means for amicable discussion and adjustment of matters of mutual interest at the National Institutes of Health.

Article I
Recognition and Coverage of Agreement

Section 1. The Employer recognizes that the Union is the exclusive representative of all employees in the bargaining unit that is defined as all officers and lead police officers employed by the National Institutes of Health, Bethesda, Maryland, in the Office of Research Services, Division of Public Safety, Police Branch, but excluding all professional employees, management officials, supervisors, and employees described in 5 U.S.C. 7112 (b)(1), (2), (3), (4), (5), (6), and (7). The Union recognizes its total responsibility for representing the interests of all such employees without discrimination or regard to labor organization membership or status.

Section 2. Employee means bargaining unit employee; position means bargaining unit position; and day means calendar day unless otherwise stated.

Article II
Provisions of Law and Regulation

It is agreed and understood that in the administration of all matters covered by this Agreement, officials and employees are governed by the provisions of the Federal Service Labor-Management regulations of appropriate authorities, including but not limited to, the Federal Labor Relations Authority, the General Counsel of the Federal Labor Relations Authority, the Federal Mediation and Conciliation Service, and the Federal Service Impasse Panel, and in addition, those policies set forth in law, rule, or regulation; published agency policies and regulations in existence at the time the Agreement was approved; and by subsequently published agency policies and regulations required by law or by the regulations of appropriate authorities or authorized by the terms of a controlling agreement at a level above that of the NIH.

Article III
Consultation and Collective Bargaining

Section 1. In this Agreement and in the working relationship of the Parties, "Meet and Confer in good faith" means the process whereby the Employer's designated representatives and the representatives of the Union have a mutual obligation to meet personally and to confer in order to exchange information, opinions, and proposals on matters within the scope of discussion.

"Collective Bargaining" means the performance of the mutual obligation of the Employer and the Union to meet at a reasonable time and to consult and bargain in good-faith effort to reach agreement with respect to the conditions of employment and to execute, if requested by either party, a written document incorporating any collective bargaining agreement reached.

Section 2. It is further agreed that the Employer will provide the Union with the opportunity to negotiate on negotiable subjects when changes are being considered in existing benefits and personnel policies and practices as they affect the working conditions of employees.

Section 3. The Employer will make available copies of proposed NIH regulations concerning personnel policies, practices, and procedures affecting working conditions of the employees of the bargaining unit for review and comment by the Union. The Union's comments will be considered before arriving at any decision.

Section 4. No canvassing, attitude surveys, questionnaires or similar devices concerning personnel policies, practices or procedures affecting working conditions of employees of the bargaining unit will be utilized by the Employer without prior notification to the Union.

**Article IV
Rights of Employer**

Section 1. The Employer retains the authority;

- A. To determine the mission, budget, organization, number of employees, and internal security practices of the agency;
- B. In accordance with applicable laws:
 - (1) to hire, assign, direct, lay off, and retain employees in the agency, or to suspend, remove, reduce in grade or pay, or take other disciplinary action against such employees;
 - (2) to assign work, to make determinations with respect to contracting out, and to determine the personnel by which agency operations shall be conducted;
 - (3) with respect to filling positions, to make selections for appointments from
 - (a) among properly ranked and certified candidates for promotion; or
 - (b) any other appropriate source;
 - (4) to take whatever actions may be necessary to carry out the agency mission during emergencies; and,
- C. To make determinations on the numbers, types, and grades of employees or positions assigned to any organizational subdivision, work project, or tour of duty, or on the technology, methods, and means of performing work.

Section 2. The right to make reasonable rules and regulations shall be considered acknowledged functions of the Employer. In making rules and regulations relating to personnel policies, procedures, and practices, and matters of working conditions, the Employer shall give due regard and consideration to the rights of the Union and the employees and to the obligation imposed by this Agreement and provisions of law.

Article V Rights of Employees

Section 1. The Parties agree that employees shall have the right to form, join, or assist any labor organization, or to refrain from any such activity freely and without fear of penalty or reprisal, and each employee shall be protected in the exercise of such rights. Except as otherwise expressly provided under the Federal Service Labor Management Relations Statute, such right includes the right to act for a labor organization or as a representative and, in that capacity, to present the views of that organization to heads of agencies and other officials of the Executive Branch, the Congress, or other appropriate authorities. The Employer shall take such action as may be required to assure that the employees in the unit are apprised of the rights described in this Article, and that no interference, restraint, coercion, or discrimination is practiced to encourage or discourage membership in a labor organization.

Section 2. The rights described in this article do not extend to participation in the management of a labor organization or acting as a representative of such organization when such participation or activity would result in a conflict or apparent conflict of interest with the official duties of the employee or with the law.

Section 3. The terms of this Agreement do not preclude any employee from bringing matters of personal concern to the attention of appropriate officials of the Employer in accordance with applicable regulations and laws.

Section 4. It is agreed that nothing in this Agreement shall require an employee to become or to remain a member of a labor organization, or to pay any money to the organization except pursuant to a voluntary, written authorization by a member for the payment of dues through payroll deductions.

Section 5. The Parties agree that the union members shall be given the opportunity to be represented by a person of their choosing, and the Union has the right to be present, when being examined by a representative of the Employer, in connection with an investigation if the employee reasonably believes that the examination may result in disciplinary action against the employee and the employee requests representation. An effort will first be made by the employee to resolve situations concerning working conditions with his/her supervisor where it is expected that most matters will be resolved.

Section 6. The Parties agree that all provisions of this Article shall be applied fairly and equitably to all employees in the Bargaining Unit.

Article VI
Union Representation, Obligations, and Other Activities

Section 1. The Union obligates itself and agrees to represent in good faith the interest of all employees in the bargaining unit covered by this Agreement without discrimination and without regard to membership in the Union.

Section 2. The Employer recognizes the union steward system for the purpose of promoting an effective relationship between the supervisors and employees by helping to settle problems at the lowest level possible. Stewards, as representatives of the Union, recognize that the supervisor is responsible for the quality, quantity, and timeliness of work performed. The Employer agrees that local and national officers and other duly authorized representatives of the Union who are not active employees of the NIH will be recognized as follows:

- A. to meet with Management officials on appropriate Union Management business if prior notification is provided the ORS Labor Relations/Employee Relations Specialist;
- B. to serve as chief negotiator for the Union when negotiating an agreement with the Employer; and,
- C. to serve as an authorized observer for the Union or as a representative of a grieved employee at a hearing.

The Union must provide notice to the Employer of any other representation by its designated officials.

Section 3. The Union shall designate and the Employer agrees to recognize 3 stewards (one from each shift, one of whom shall be designated as Chief Steward) and 3 alternate stewards (one from each shift) to handle appropriate representational functions. Alternates will act only in the absence of designated stewards.

Section 4. The Union agrees to furnish to the ORS Labor Relations/Employee Relations Specialist and Chief, Police Branch, notice of all designated stewards every 12 months, by October 1, and at the time of any change in designation. Official time will not be granted to any steward whose designation is not on file with the ORS Personnel Office.

Section 5. Any steward who requests official time for representation business will normally be granted permission to leave his/her post on official time unless such time would impair the unit work. In such cases, the supervisor will arrange for time off as the workload permits.

Section 6. A steward will be allowed time away from his/her job to transact any authorized functions after requesting and receiving permission from his/her immediate supervisor. Supervisors will indicate their approval by initialing the SF-71 and the NIH Report for Approval of Official Time Form.

- A. The steward will inform the supervisor where he/she plans to go and for approximately how long. The steward also must obtain permission from the supervisor of the employee with whom he/she wants to meet. Upon completion of their business, the steward and the employee will report back to their respective supervisors and assigned work sites. The SF-71 and the NIH Report for Approval of Official Time Form will reflect the actual time charged and the reasons therefore, with copies to Management and the Union.

Section 7. The Parties agree that time away from the work situation granted to stewards and employees will not be used for discussion of matters connected with the internal management or operations of the Union, the collection of dues or assessments, the solicitation of membership, campaigning for elective office in the Union, the distribution of literature or authorization cards, or the solicitation of grievances or complaints. The Union recognizes its responsibility to insure that the stewards do not abuse this authority by unduly absenting themselves from their assigned work areas and that they will make every effort to perform their authorized functions in a proper and expeditious manner.

Section 8. The Employer agrees to provide a total of 50 hours per calendar year for Union officials to perform representational duties. Approval of official time will be granted to only one official Union representative from the bargaining unit at any time, per individual requesting representation.

Section 9. The Union agrees that their stewards will be instructed with respect to the Federal Service labor-Management Relations Statute and other applicable regulations and procedures as well as the provisions of this agreement.

Section 10. The Employer agrees that up to 24 hours of official time within a fiscal year, but not travel or per diem, may be granted for attendance at Union sponsored training designed to advise representatives on matters within the scope of labor management relations which are of mutual concern to the Parties. Approval of official time may be granted to up to two requesting persons at any one time, workload and manpower permitting.

Section 11. The Employer agrees that when given at least fifteen (15) calendar days advance notice by an employee in the unit that he/she has been elected or appointed to serve as a delegate to any Union activity requiring absence from work, such employee shall be granted annual leave and/or leave without pay (LWOP), whenever practicable.

Section 12. The Employer agrees that there shall be no restraint, interference, coercion, or discrimination against the stewards or officers of the Union because of the performance of their Union activities.

Section 13.

- A. The Employer permits the Union's use of the conference room when available, the phone in the conference room when available, and a secure file cabinet to facilitate the furtherance of Labor Management relations; and
- B. the Employer will commence immediately upon ratification of the Negotiated Agreement, to search for space on the NIH campus adequate in size for the use of all labor unions at NIH. Facilities and space will be shared by all unions to facilitate the furtherance of Labor-Management relations.

Section 14. The Employer agrees to allow the Union a reasonable use of the internal mail distribution services presently utilized by the NIH.

Article VII

Labor Management Relations

Section 1. The Parties agree to the establishment of a labor-management relations committee to convene in good faith to seek mutual understanding on problems arising under this Agreement or concerning labor-management relations.

Section 2. The Union committee members shall be the shop stewards of the bargaining unit and/or the President or his designee of the NIH FOP Labor committee. The Employer's committee members shall be the ORS Labor Relations Specialist or Employee Relations Specialist, the Chief of the Police Branch and/or Deputy Chief of the Police Branch and additional management officials.

Section 3. The committee will not act on individual grievances, complaints, or disputes.

Section 4. Normally, situations will first have been discussed with Employer officials and by officials of the bargaining unit prior to being brought before the committee for consideration.

Section 5. Meetings will be held at the request of either party. The request shall include an agenda of items to be discussed. Items other than those on the agenda may be discussed by mutual agreement. Requests for meetings should be submitted with an agenda by either party to the ORS Labor Relations or Employee Relations Specialist or designee at least 5 working days in advance of a proposed meeting.

Section 6. Attendance at meetings will be limited to Union and Employer representatives and other persons scheduled to speak on agenda items.

Section 7. Meetings will be conducted during working hours (8:30 a.m. - 5:00 p.m., Monday through Friday) and on official time whenever possible.

Section 8. The Union President will advise the Labor Relations Specialist or Employee Relations Specialist, a minimum of 3 days in advance of a scheduled meeting, the names of individuals who are requested to participate in the meetings. However, the Union assumes responsibility for notifying Union representatives concerning time and place of the meeting and arranging for appropriate supervisory clearance for time away from the work site.

Section 9. The labor management relations committee may make recommendations to the Chief, Police Branch, regarding equipment and supplies. The Chief will fully consider the recommendations.

Section 10. The labor management relations committee will meet monthly upon the request of management or labor representatives.

Article VIII

Hours of Work

Section 1. The Parties agree that the following conditions of employment exist and that they are made known to persons accepting employment in the bargaining unit.

Section 2. The administrative work week will consist of 7 consecutive days, Sunday through Saturday. Each pay period shall consist of 80 regularly scheduled work hours. One half hour of compensated overtime at the end of the shift will be provided for employees to put away Government property and equipment necessary for their work. No employee will normally be required to remain beyond this time for this purpose without compensation.

Section 3. Hours of work for each of the regular work shifts are determined by the Employer. Reliefs may be implemented by the Employer as required by the workload. All employees are expected to be on time at the start of their shift. Employees may, on occasion, be required to continue on duty beyond the normal work shift to complete any assignment already in progress on a regular tour of duty including preparation of necessary reports.

Section 4. The hours of a shift do not include a meal period. However, each employee will be allowed time during the relief to eat when scheduling of work permits.

Section 5. Stable work schedules shall be maintained when practicable and employees will, whenever possible, be given sufficient advance notice of any change in work schedules. When an employee is assigned to attend class outside the Washington, D.C. Metropolitan area for a period of one (1) week or more, the Employer will make a best effort to notify the employee in writing of his/her assignment fourteen (14) days in advance. This will enable the employee to make home and family preparations compatible with his/her time of absence.

Section 6. The Employer agrees to notify the Union prior to effecting a reassignment to any hours of work or shifts now established when more than 10% of the employees in the bargaining unit are involved. Ten calendar days advance notice will be given prior to effecting such a reassignment except in emergencies or in circumstances that would seriously handicap the Employer in accomplishing its functions or would substantially increase costs.

Section 7. Tours of duty shall not be established or modified solely for the purpose of avoiding the payment of holiday premium or overtime pay.

Section 8. To the maximum extent possible, tours of duty will be scheduled to allow two consecutive days off in each administrative workweek. When possible and practical, volunteers will be considered first when transfers between relief/units are necessary.

Section 9. In scheduling employee's nonwork days, the Employer agrees to give consideration to the preference of employees and to seniority, based on continuous service in the bargaining unit.

Such consideration shall not operate so as to require the reassignment or transfer of employees between reliefs or to restrict the rights of Employer as set forth in this Agreement. However, the Employer agrees that when an officer is reassigned to another shift and he/she has equal seniority and similar duties with an officer currently on the shift, the preference to sign off days will be at the option of the officer currently on the shift. Voluntary shift transfers may be substituted for formal disciplinary action/process with the consent of management and the employee involved.

Section 10. The Parties agree that members of the bargaining unit may substitute for one another on regularly scheduled tours of duty if equally qualified. This practice is commonly referred to as "trading time." This practice will in no way require additional compensation on the part of the Employer. Accordingly, the practice of "trading time" will be deemed to have no effect on the hours of work if the following criteria are met:

- A. The "trading time" is voluntarily arranged by the employees participating in the program and subject to prior approval of the employer.
- B. The time and attendance reports will be posted to reflect the actual hours worked by each employee.
- C. The trading of time must be accomplished within the same pay period, i.e., the time paid back cannot extend beyond the end of the pay period during which the initial trading took place.

Section 11. Employees shall be entitled to all holidays in accordance with applicable laws and Executive Order. Employees working on a holiday shall be paid holiday pay, shift differential, and/or overtime in accordance with applicable regulations. As the mission of the Employer dictates, employees will be required to work on holidays.

Section 12. All employees have been designated "essential personnel." When non-essential employees are excused because of hazardous weather conditions or other emergency situations, employees of the Unit must report for work unless they have been individually notified by their supervisor that they are excused for the day. An employee who is scheduled for duty (and is not notified otherwise) will not be excused if he/she fails to report. The employee will be granted approved leave if he/she has made a reasonable effort to report as determined by the supervisor; otherwise, the supervisor will place the employee on absence without leave (AWOL).

Section 13. In recognition of management authority under Article IV of this contract and Section 7106 of the Federal Service Labor Management Relations Statute, hours of work and tours of duty will be established by the Employer which ensures that effective and efficient police protection is provided at all times.

Section 14. Unauthorized absence includes tardiness, abandonment, and failure to report for duty. Tardiness is defined as a lack of punctuality in reporting to work as regularly assigned or

specifically requested. Abandonment is defined as leaving a duty post without prior supervisory approval. Failure to report is defined as failing to return to regularly assigned or specifically requested work after having been released from special duties including but not limited to court appearances, honor guards, funeral details, voting or registering to vote in national, state or local elections, and jury duty.

Section 15. The Parties agree that:

- A. In an isolated instance of unauthorized absence of less than one hour where the excuse is acceptable to the supervisor, the absence may be excused in accordance with the applicable regulations. When the unauthorized absence is one hour or more and the reason for the absence is acceptable to the leave approving official, the employee may request annual leave, sick leave, or LWOP as appropriate.
- B. In the case of unauthorized absence of any length of time where the excuse is not acceptable to the supervisor, the period of absence will be treated as AWOL.
- C. In the case of excessive, unauthorized absences, the supervisor will advise the employee of the possible consequences, including provisions of this Article and Article XXIII, Disciplinary and Adverse Actions.

Section 16. Whenever an employee's attendance record is considered unsatisfactory due to unauthorized absences or frequent emergency requests for annual leave or sick leave, the Employer may require that he/she follow "special leave procedures," (i.e., prescribed procedures for requesting leave) or may institute disciplinary or adverse action. Such notification represents a warning to the employee that the general pattern of past leave requests has been unsatisfactory despite the fact that some requests may have been approved.

Section 17. The employee will be given written notice of the initiation of special leave procedures. No employee shall be given a written notice placing him/her on special leave procedures without prior discussion of the reasons for such action.

Section 18. The need for special leave procedures will be reviewed with the employee no later than six (6) months following the date of the letter imposing the special leave procedures unless otherwise provided for in the special leave procedures. The employee will be notified in writing of the decision for continuance or discontinuance of the special leave procedures.

Article IX Overtime

Section 1. The Employer will make every effort to assign overtime fairly among all qualified employees. Assignment of overtime will be made in light of the following considerations: special skills of the employees, familiarity with the work assignment, particular work requirements, and the preferences of the employees.

Section 2. Whenever possible, overtime assignments will be handled on a volunteer basis.

Section 3. The Employer agrees to make every effort to give employees advance notice before requiring them to work overtime. It is agreed that all employees must be willing to accept overtime on short notice in emergency situations.

Section 4. When work is planned in advance to be performed on an overtime basis on a day other than one in the basic work week, the Employer agrees to make a reasonable effort to plan the size of the work force so as to provide at least four (4) hours of work for each employee.

Section 5. An employee who is called back (i.e., required to return to his/her place of employment to perform unscheduled overtime work either on a regular workday after he/she has completed his/her regular schedule of work or on a day outside of his/her basic work week) will be paid a minimum of two (2) hours of pay at the overtime rate even if his/her service cannot be utilized after he/she reports to work.

Section 6. Employees either in training or on detail shall be considered for overtime assignments in the bargaining unit subject to the provisions of Section 1.

Section 7. An employee called in to work on shifts outside his/her basic work week shall be promptly excused at such time as it is determined that his/her services are no longer needed.

Section 8. The employer shall grant the employee the option of choosing compensatory time in lieu of overtime payment for hours worked over the normal workweek schedule (80 hours regular/5 hours per pay period overtime). Without prior approval of the Chief, the maximum amount employees will be allowed to accrue will be limited to 40 hours of compensatory time. An employee's shift commander or other member of upper level management will grant the use of compensatory time following the established leave procedures. Compensatory time can be used by the officer as long as it does not adversely affect shift strength level and does not result in the creation of unnecessary overtime. The officer understands that if compensatory time is not used within 8 pay periods, then the time will be converted to overtime pay as per the HHS Timekeeping manual. Officers may not opt for compensatory time in lieu of overtime for Holidays worked as overtime.

Section 9. The Employer agrees to pay K-9 Officers one-half (½) hour of overtime pay seven days a week while assigned to K-9 duties. This overtime is in addition to any other earned overtime.

Article X Annual Leave

Section 1. The Parties agree that annual leave is a benefit provided by law. However, it is the prerogative of the Employer to make the final decision on when leave is to be used. An employee must specifically request annual leave and obtain approval from the appropriate leave approving official prior to its use. Retroactive approval may be given where circumstances warrant, as determined by that official. It must not be assumed, however, that a mere report of absence will necessarily result in leave approval. Failure to secure proper approval from the leave approving official may result in the period being charged to AWOL.

Section 2. Annual leave is provided, and may be used, for two general purposes:

- A. To allow every employee an annual vacation period of extended leave for rest and recreation; and,
- B. To provide periods of time off for personal and emergency purposes.

Section 3. Approval of annual leave is the responsibility of the Employer and should be consistent with the accomplishment of the mission of the National Institutes of Health and of the unit covered by this Agreement.

Section 4. Subject to workload and manpower requirements of the Employer, the leave approving official agrees to approve an employee's use of accumulated annual leave, provided the employee requests approval from his/her leave approving official with reasonable advance notice. The Parties understand that numerous requests for annual leave in small increments, which upset work schedules or inconvenience other employees, may be subject to disapproval. Requests for annual leave shall be submitted on an SF-71, and the leave approving official will advise the employee of his/her approval or disapproval promptly after he/she has been able to determine from work and leave schedules and manpower requirements whether the services of the employee can be spared.

Section 5. It is recognized that employees should apply in advance for approval of anticipated annual vacation leave. Requests are to be submitted prior to March 31 of each year for inclusion in the overall vacation schedule. Any dispute between employees desiring the same time will be resolved by granting the vacation time of the employee with continuous seniority in grade except as follows: Vacations during Christmas week shall be offered on a rotating schedule, irrespective of seniority. An employee will not be permitted to change his/her selection of vacation time after March 31, if such change affects the schedule of another employee unless that affected employee agrees to the change.

Section 6. The Employer agrees to continue to encourage employees to request annual leave for at least one basic work week for vacation.

Section 7. The vacation schedule in effect at the time of the execution of this Agreement will remain in effect for the balance of the calendar year.

Section 8. If Annual Leave is refused, the requestor may elevate the request to the next supervisory level up to and including the Branch Chief level for reconsideration. The request may also be elevated to the next level if a response is unreasonably delayed.

Article XI Sick Leave

Section 1. Employees shall earn sick leave in accordance with applicable rules and regulations.

Section 2. The Union fully recognizes the importance of sick leave and the advantage of sick leave accrual to the individual and that it is the duty of the employee to utilize sick leave only when he/she is incapacitated for the performance of duty because of illness, injury, or other valid reasons. The Union agrees, therefore, to further the efforts of the Employer to eliminate improper or unwarranted use of sick leave by employees covered by this Agreement.

Section 3. An employee must call personally to report his/her illness unless physically unable to do so. Requests for sick leave must be called in to the senior relief supervisor on duty at least one (1) hour prior to the employee's reporting time, or as soon afterward as practical.

Section 4. A doctor's certificate is required for absences longer than three (3) full days. In the case where the supervisor has good reason to believe that the employee is abusing the use of sick leave, or in the case of frequent use of sick leave, the supervisor will issue the employee a written notice that he/she must furnish a medical certificate to support all subsequent periods of absences due to illness. The written notice to the employee will contain the date and signature of the issuing supervisor. An employee will not be issued a written notice unless he/she has been warned by his/her supervisor on at least one (1) occasion. An employee's leave record shall be reviewed by the supervisor with the employee within six (6) months from date of issuance of the written notice to determine whether a continuation of this requirement is necessary.

Section 5. An employee who, because of illness, is released from duty on the recommendation of the Occupational Medical Service (OMS), shall not be required to furnish a medical certificate in support of sick leave for the day on which he/she is released from duty. However, use of sick leave for succeeding days will be subject to the provisions of Section 4 of this Article.

Section 6. Specifically, when a police officer is released from duty on the recommendation of the OMS and is unable to clear through the OMS or return to duty because the OMS is closed, e.g., the shift on Saturday or Sunday evening from 11:00 p.m. to 7:30 a.m., he/she will be permitted to go to work provided he/she has medical clearance from his/her physician. However, it is necessary that the medical certificate be cleared with the OMS at the end of the above shift. The employee will be paid overtime for the period of time required to obtain clearance.

Section 7. An officer on sick leave for more than one day must call the leave approving official on duty each day of his/her illness. However, if the employee is confined to his/her home or in a hospital for an extended period, arrangements for adequate reporting procedures must be made by the employee with the appropriate leave approving officials. Failure by the employee to arrange for adequate reporting procedures may result in the absence being reported as AWOL.

Section 8. The employee will obtain approval in advance for absence for medical, dental, or optical examinations or treatments except where an emergency would preclude advance notice and approval. Advance sick leave shall be granted in accordance with applicable rules and regulations. In emergencies, the employee is responsible for notifying his/her senior relief supervisor on duty as soon as possible.

Article XII
Leave Request for Emergency Reasons

Section 1. A request for leave for emergency reasons will be considered on the merits of the individual request. An emergency request for leave is defined as a condition which arose since the employee last left work, and which is of such a serious nature as to justify the employee's decision to request leave which has not been previously approved.

Section 2. Employees must request leave from the senior relief supervisor on duty at least one (1) hour prior to the required reporting time. When it is not physically possible for the employee to personally make the call, the individual calling must be able to provide the senior relief supervisor on duty with sufficient information regarding the employee's attendance for his/her next assigned shift. The Employer agrees to give appropriate consideration to an emergency request for leave for situations that arise less than one (1) hour before the beginning of the scheduled tour of duty.

Section 3. An employee requesting emergency leave will be required to explain the reasons for his/her request and give the senior relief supervisor on duty enough information to make a decision. If adequate justification is not given, the employee must report for duty, otherwise he/she will be carried as AWOL for payroll purposes until he/she returns to duty and the case is reviewed and decided.

Article XIII
Miscellaneous Leave and Excused Absence

Section 1. Court Leave.

- A. Court leave will be granted in accordance with applicable regulations to an employee who is required by subpoena or direction by a higher authority to appear as a witness for the Federal Government or the government of the District of Columbia, or any state or local government. The Court may be a Federal, State, District of Columbia, or municipal court. When the employee is called as a witness, he/she shall notify his/her supervisor promptly so that proper arrangements may be made for his/her absence from duty.
- B. Employees called for jury duty or jury qualification will be granted leave consistent with regulations. When called, the employee shall promptly notify the leave approving official and submit a true copy of his/her summons for jury service. Upon completion of his/her service, the employee shall present to the leave approving official evidence from the court indicating time served on such duty.
- C. An employee released by the court in sufficient time to return to work and to perform duty for at least (2) two hours of his/her regular work shift will be required to return to work or be charged appropriate leave for his/her absence. However, duty time added to court duty will not exceed eight (8) hours total per day.

Section 2. Voting and Registration.

- A. An employee living within normal commuting distance will be authorized excused absence in accordance with OPM regulations as necessary to vote, which will permit him/her to report to work three (3) hours after the polls open or leave three (3) hours before the polls close, whichever requires the least amount of excused absence.
- B. If the employee's voting place is beyond normal commuting distance and absentee balloting is not permitted, he/she may be granted sufficient time off to vote not to exceed eight (8) hours.
- C. In jurisdictions where registration in person is required, excused absence to register will be granted on the same basis as for voting, except that no time shall be granted if registration can be accomplished on a non-workday.
- D. The employee has a responsibility to make arrangements with the leave approving official in advance for time off to vote or register.

Section 3. Absence for Maternity and Paternity Reasons.

- A. Pregnancy is a condition which eventually requires the employee to be absent from the job because of incapacitation. An absence covering pregnancy and confinement is be treated like any other medically certified temporary disability.
- B. Absence for maternity reasons should be requested as far as possible in advance of such leave, not only for the supervisors to make necessary staffing adjustments to allow for the absentee, but also for the protection of the employee's health.
- C. Paternity Leave - A male employee will, upon request, be granted his accumulated annual leave, LWOP, or a combination of both, for the purpose of assisting or caring for his minor children or the mother of his newborn child while she is incapacitated for maternity reasons, in accordance with standard policy for requesting leave and/or the FMLA.

Section 4. Military Leave.

Request for military leave will be granted in accordance with applicable rules and regulations.

Section 5. Honor Guard - Military Funeral.

Excused absence, not to exceed four (4) hours, will be granted for participation as honor guard or pallbearers at military funerals or burials, or as a member of a ceremonial firing squad, provided that approval has been obtained in advance.

Article XIV
Leave Without Pay

Section 1. An employee may be granted leave without pay (LWOP) in accordance with applicable laws and regulations. Such leave shall not exceed a period of one (1) year for an individual application.

Section 2. Where an employee knows in advance that LWOP must be requested because annual and/or sick leave is not available, the request for LWOP shall be submitted in writing on form SF-71, allowing sufficient time for decision prior to its requested starting date. Employee may, in the future, apply for leave through the Integrated Time and Attendance System (ITAS).

Section 3. Where an employee requests an extended period of LWOP, the supervisor will approve the request by the employee based on a review of the particular circumstances and convey that decision to the employee. Where the particular circumstances or period of leave being requested are such that space on the SF-71 or in ITAS (when implemented) is not adequate for the justification or explanation, the employee may submit an accompanying memo or letter.

Article XV
Position Classification

Section 1. A copy of a unit employee's current position description will be made available to him/her upon request. The supervisor will provide a copy of subsequent changes to the position description.

Section 2. An employee may appeal the classification of his/her position in accordance with applicable regulations and may be accompanied, represented, and advised by a representative of his/her own choosing in discussions with his/her supervisor or representative of the Personnel Office when appealing the classification of his/her position.

Section 3. The Union may make recommendations and present supporting evidence regarding its views on the adequacy and equity of classes of positions or grade levels.

Article XVI
Merit Promotion

Section 1. The objective of the merit promotion program is to assure that qualified and available candidates are provided fair and systematic consideration and opportunities for selection for promotion based on merit.

Section 2. The procedures of the NIH Merit Promotion Plan and any subsequent amendments will be applicable to the bargaining unit. Copies of the NIH Merit Promotion Plan are available upon request from the Personnel Office.

Section 3. During the recruitment process, the Employer agrees to give first consideration to qualified applicants who are current members of the bargaining unit.

Section 4. Positions will be advertised a minimum of fourteen (14) calendar days. Employees are responsible for checking the bulletin boards for vacancy announcements covering jobs in which they have any interest. Applicants are responsible for providing all pertinent information that specifically addresses the requirements for the position. Members of the bargaining unit are responsible for keeping their Official Personnel File up to date with the use of the SF-171, Application for Federal Employment, or SF-172, Amendment to Application for Federal Employment, to document in their personnel files additional training, education, awards, and experience that they may have gained.

Section 5. Any employee who has applied for a specific position is entitled to know, upon request:

- A. whether he/she was considered for promotion, and, if so, whether he/she was found eligible on the basis of the minimum qualifications requirements for the position;
- B. whether he/she was in the category from which a selection was made;
- C. who was selected for promotion; and,
- D. in what areas, if any, he/she should improve to increase chances for future promotion.

Section 6. Employee(s) may see, upon request, any record of production or any appraisal of their performance which was used or which may be used in evaluation for promotion. Employees are also entitled to see, upon request, the Knowledge, Skills and Abilities (KSA) elements and a copy of the position description which is relevant to the position being filled. Employees are not entitled to information concerning the qualifications or ratings of other applicants in any form which would identify the specific individuals to whom the information pertains or the KSA quality level definitions.

Section 7. The Employer agrees to consider utilizing a written Police Promotional Test based on the Police Manual, the law, and current work requirements.

Article XVII

Temporary Promotions and Details

Section 1. The parties agree that employees should be paid at rates commensurate with duties to which they are officially assigned. In consideration of this policy, the Employer agrees that the use of details to positions of higher level and pay will be held to a minimum.

Section 2. Whenever an employee is detailed to act for a higher graded employee and that assignment is anticipated to last for more than thirty (30) days, the employee shall be given a temporary promotion for the duration of the assignment under competitive promotion procedures. Assignments for thirty (30) days or less may be covered by detail in accordance with applicable regulations.

Section 3. Employees may be detailed or temporarily promoted to a position of higher grade to:

- (1) fill a position which has become vacant until a permanent appointment is made;
- (2) assume increased responsibilities for a limited period due to increased workload; or
- (3) participate in a special project which will last for a limited period.

The employee will sign a statement to show that he/she has full knowledge of the action taken and the conditions under which he/she is temporarily promoted prior to the effective date of the action.

Section 4. An employee may be temporarily promoted for the expected duration of the need for his/her services in the higher grade, but the initial period may not exceed one (1) year. If his/her services are still needed in the higher grade after one (1) year, the employer will review the situation and determine whether it actually is temporary and, if not, the position will be filled on a permanent basis. If the situation warrants, however, the temporary promotion may be extended for up to one (1) additional year.

Section 5. Employees selected for temporary promotions must meet the requirements for basic eligibility in accordance with applicable qualifications standards of the Office of Personnel Management and appropriate selective factors.

Section 6. Employees may be detailed, in accordance with applicable regulations, between specialized position categories, to take care of situations such as temporary workload imbalances, or to prevent the need for reduction in force. The Union will be consulted before such action is initiated.

Section 7. Upon termination of a temporary promotion, the employee will be returned to the position from which he/she was promoted and at the pay rate to which he/she would have been entitled had he/she not received the temporary promotion.

Section 8. A temporary promotion may not be made primarily for training and evaluating an employee in a higher grade position.

Article XVIII

Safety and Occupational Health

Section 1. The Employer shall make reasonable effort to provide and maintain safe working conditions and industrial health protection for employees by using recognized safety precautions as a guide. The Union shall cooperate by instructing and encouraging members of the unit to observe safety precautions and to work in a safe manner.

Section 2. It is recognized that each employee has a primary responsibility for his/her safety and an obligation to know and observe safety rules and practices as a measure of protection for himself/herself and others. It is also recognized that the need for disciplinary action should be considered if an employee violates safety rules and safe practices. In the course of performing their normally assigned work, shop stewards will be alert to observe unsafe conditions and practices in their immediate areas which represent safety and health hazards. When unsanitary, unsafe, or unhealthful conditions or practices are observed by the steward, it is his/her responsibility to report them at once to the immediate supervisor. In addition, the shop steward upon notification by the Employer, may participate in all formal safety and health inspections conducted by the NIH Division of Public Safety.

Section 3. In addition to the regular training given an employee concerning methods of performing the various tasks of his/her position and the materials and equipment to be used, special attention will be given to identifying hazards that may be involved and instructions in coping with such hazards. No employee will be required to perform duties involving special hazards without receiving sufficient training concerning the hazards, the proper work methods, and the protective measures and equipment to be used. When employees are required to work under conditions which may be potentially detrimental to health and safety, such conditions will be remedied, insofar as possible and practical, and precautions taken to protect the employee from industrial hazards.

Section 4. The Employer will welcome at any time, from the individual employee or from the Union, suggestions which offer practical and economically feasible ways of improving safety conditions. Any Union steward from the bargaining unit may, upon request, meet with the Employer's representative, without loss of pay or leave, at scheduled intervals to consider safety problems and to make recommendations.

Section 5. Employees who sustain an injury or contract an occupational illness while on the job, no matter how slight, will immediately report to the OMS for examination and/or treatment. They will also notify their supervisor in writing, preferably before leaving the work site, on the shift during which the injury/illness occurred but not later than forty-eight (48) hours afterward. Such report shall be made on Office of Worker's Compensation Programs (OWCP) Form CA-1 and/or CA-2, as appropriate, which can be obtained from the OMS. If the employee's injury/illness prevents him/her from reporting to the OMS or completing the Form CA-1 or Form CA-2, a report must be submitted by the supervisor. If the injury/illness is of a nature which requires immediate treatment at an outside medical facility, transportation to Suburban Hospital

will be provided by the Employer at the time of the injury or occupational illness. Further, the applicable provisions of the Federal Employees' Compensation Act as administered by the OWCP, U.S. Department of Labor, will be made available to the employee. The immediate supervisor or designee will assist the employee, at his/her request, in completing all necessary forms.

Section 6. When the employee has made a determination that the need exists and requires the use of special equipment, the wearing of uniforms, protective clothing, e.g., body armor or special wearing apparel to protect the employee, the environment, or as a means of identification, these will be provided by the Employer. All special equipment, uniforms, protective clothing, or special wearing apparel must be used and/or worn as prescribed by the Employer.

Section 7. The physical requirements are determined by the needs of a position. It is the responsibility of the Employer to determine whether an employee can perform the required duties without hazard to himself/herself or others. Where questions of fitness-for-duty arise, the Employer may obtain medical guidance from the NIH in making such determinations.

Section 8. The Union shall nominate one unit member for consideration for membership on the Safety Committee for the NIH Division of Public Safety.

Section 9. Assistance, as described below, for an employee recuperating from illness or injury and temporarily unable to perform all of his/her assigned duties shall be provided by the Employer whenever possible. The employee must either submit a statement from his/her personal physician, which requires concurrence by the NIH OMS, or a statement from the NIH OMS physician, if treated by the NIH OMS. The statement must describe the conditions under which the employee may return to work, identify any restrictions that are placed upon the employee with regard to performance of work, and estimate the period of time limited duty would be required. Employees who suffer medically verified, temporary illness or injury shall be temporarily assigned limited duty during their period of incapacitation if there is limited duty work available within the Branch, that can temporarily accommodate the employee's health condition. Limited duty, in this context, is defined as a temporary work assignment of short duration in which an employee can perform some of his/her normal job duties and/or other duties in the Branch as identified by the Employer. If limited duty is not available within the Branch, the Employer shall make every effort to locate a temporary position outside the Police Branch while the employee is temporarily incapacitated and may be assigned until cleared by proper authority to return to his/her normal assigned duties in the Police Branch. The Employer may require an employee on limited duty assignment to submit to a medical determination examination to determine his/her status before returning to full duty.

Section 10. The Employer will conduct safety meetings with the employees as needed. Topics to be discussed will be selected from suggested topics furnished by individual employees, the Union, and the Employer. Suggestions developed at the Safety meetings will be considered and communicated to the appropriate official who has been designated as having the authority to affect changes in safety rules and regulations.

Section 11. The Employer agrees to provide, whenever possible, brief relief periods for officers during civil disturbances, sit-ins, or other disruptive situations. The Employer further agrees to provide, whenever possible, brief relief for officers on traffic detail during severe inclement weather.

Section 12. When an employee fails to acknowledge a radio call after three (3) consecutive attempts are made by the dispatcher to reach him/her, the on-duty supervisor will immediately initiate a search by utilizing appropriate, available resources.

Section 13. In order to prepare the NIH Police to perform assigned duties as Police Officers, without harm to themselves or others, the Employer will determine and provide training in proper police procedures including the safe handling of service weapons.

Section 14. It is understood by the Union and the Employer that in any situation in which a firearm is issued by the Employer, that firearm will only be used by an officer to defend himself/herself or another person from what the officer has reasonable cause to perceive as an immediate threat of death or serious bodily injury.

Section 15. The Employer shall have the exclusive right to determine whether an incident requires arming, the officers designated to be armed, and the number of police officers to be armed.

ARTICLE XIX
Appearance/Grooming Standards

Section 1. It will be NIH Police policy that its officers be well groomed and present a professional appearance to maintain the public's trust and respect. Both the self-esteem generated in the individual and the respect commanded from the public they serve promote the excellent reputation of the section.

Section 2. The Employer agrees to furnish uniforms with the exception of socks and underwear. The Employer agrees to provide laundry services for all bargaining unit members.

Section 3. The Employer and the Union agree that the employees of the NIH Police Department must be well groomed at all times. This is essential not only for the safety and protection of the employee but for sound hygiene practices.

A. Haircuts for male officers will conform to the following:

- (1) Hair will be neatly groomed.
- (2) The length or bulk of the hair will not be excessive or present a ragged, unkempt, or extreme appearance.
- (3) Hair will not extend beyond the mid-point of the ear or extend below mid-point of the shirt collar in the rear.
- (4) In all cases the bulk or length of hair shall not interfere with normal wearing of police headgear.

B. Hair standards for female officers:

Hair shall be arranged in a style to prevent any hair from extending below the mid-point of the shirt collar. The style shall not interfere with normal wearing of police headgear.

C. Sideburns:

- (1) The length of sideburns may not extend below a point straight and level with the lowest point of the ear lobe.
- (2) Sideburns are to be kept neatly trimmed at all times.

D. Facial Hair

- (1) **Beards or goatees shall not be worn. An officer suffering from a facial skin disorder or condition may wear a neatly trimmed beard no longer than 1/4 inch, if the officer has written certification from a dermatologist, obtained at the employee's expense. Any officer who is allowed to grow a beard, because of a skin condition, may at the discretion of the Police Chief be required to return to a dermatologist for further review.**
- (2) **A mustache is permissible as long as it does not extend more than 1/4 inch below or beyond the line of the individual's upper lip.**

Exceptions - Personnel assigned to investigation duties and other specialized enforcement activities which require inconspicuous appearance may be excused from these provisions upon the approval of the Chief of Police.

Section 4. Any civilian clothing worn by members of the bargaining unit assigned to the plain clothes section that is damaged or destroyed in the line of duty or that is directly related to the assignment will be repaired or replaced at comparable value at the Employer's expense.

Section 5. Newly hired police officers will not be uniformed until the successful completion of the required course of study provided by Federal Law Enforcement Training Center (FLETC). Non-uniform clothing worn on duty will be provided at the individual's personal expense.

ARTICLE XX

Training

Section 1. The parties agree that employee training and development is of benefit to both parties. Consistent with its needs and available resources, the Employer agrees to provide in-service training for all employees of the bargaining unit designed to:

- A. increase the employee's knowledge of NIH operation;
- B. provide better protection and security for employees, patients, and property;
- C. improve employee skills in investigating and reporting incidents and offenses; and,
- D. improve employee skills to perform assigned duties.

Section 2. All training opportunities will be offered without regard to race, color, national origin, sex, age, or handicapping condition.

Section 3. The Employer agrees to post training opportunities and dates as they arise which will provide all employees the option to apply on an equal basis, when time permits.

Section 4. Union recommendations for changes to existing programs or the development of new training programs affecting employees of the bargaining unit will be given consideration by the Employer.

Section 5. Training which is required, authorized, and approved by the Employer under the terms of this Agreement shall be conducted during the duty hours of the employees concerned whenever possible. This does not apply to reading and study assignments given as a part of the training. The Employer must approve or disapprove all requested training and must establish schedules for all required training. If Employer required training cannot be accomplished during the employee's normal duty hours, the Employer will adjust the duty hours or compensate the employee for the additional hours on duty to accomplish the training.

Section 6. The Employer agrees that if an employee in the bargaining unit wishes to take college courses that are related to his/her work, the Branch may reimburse the employee based on the following conditions: availability of funds; the employee must maintain passing grades with a minimum of a "C" or equivalent grade; the employer must approve the selection of the training institution and course of instruction in advance; and payments would be limited to all or parts of the tuition, books and fees.

Section 7. All training authorized by the Employer will be recorded and made part of the employee's Official Personnel Folder. In addition, the Personnel Office (P.O.) shall, upon written request of an employee, record in the Official Personnel Folder any non-Government training and apprenticeship programs provided the employee submits evidence to the P.O. of having satisfactorily completed such training.

Section 8. It is the present policy of the employer to have employees qualify twice annually in the use of the .38 caliber revolver. The employer agrees to consider implementation of improved training on firearms proficiency to incorporate a practical course and a "shoot/don't shoot" weapons course. The Employer reserves the right to increase or decrease the number of training opportunities in conjunction with operational needs or budgetary restrictions.

Section 9. The Parties agree to promote full use of the NIH Suggestion Program. Suggestions submitted by employees of the bargaining unit will be handled in accordance with Office of Personnel Management instructions, Department of Health and Human Services instruction 451-1, NIH instruction Manual 2300-451-3, and Office of Research Services instruction.

Section 10. The employer agrees to seek input from the Union during the annual in-service training planning process and to give consideration to the Union's recommendations.

ARTICLE XXI
Grievance Procedures

Section 1. The purpose of this Article is to provide a method acceptable to both the Employer and the Union for prompt equitable settlement of grievances.

Section 2. Scope.

A grievance means any complaint -

- A. by an employee concerning any matter relating to the employment of the employee;
- B. by the Union concerning any matter relating to the employment of the employee, or,
- C. By any employee, the Union, or Employer concerning:
 - the effect or interpretation, or a claim of breach of a collective bargaining agreement; or,
 - (2) any claimed violation, misinterpretation, or misapplication of any law, rule, or regulation affecting conditions of employment.
- D. Except it shall not include a grievance concerning:
 - (1) those matters mandatorily excluded by Section 7121(C) of the Federal Service Labor-Management Relations Statute:
 - (a) any claimed violation relating to prohibited political activities;
 - (b) retirement, life insurance, or health insurance;
 - (c) a suspension or removal (for national security reasons);
 - (d) any examination, certification, or appointment; or,
 - (e) the classification of any position which does not result in the reduction in grade or pay of an employee.

- (2) non-adoption of a suggestion or disapproval of a quality increase, performance award or other type of honorary or discretionary award;
- (3) termination of an employee who is serving on a probationary period or on a temporary appointment;
- (4) decision by the Employer concerning the agency mission, budget, or organization and internal security practices of the agency, the numbers of employees and the personnel by which agency operations are to be conducted, the numbers, types, and grades of employees or positions assigned to any organization, subdivision, work project, or tour of duty, or the technology, method and means of performing work, and the contracting out of work;

a written warning or admonishment regarding performance, attendance, or conduct that would not be included within the employee's Official Personnel Folder; for documentation purposes these documents will be kept in the ER files for the time period specified by regulations.

- (6) notice of proposed disciplinary action, proposed adverse action, or proposed action based on unacceptable performance;
- (7) content of published DHHS, PHS, or NTH policy;
- (8) the substance of the critical elements and performance standards of an employee's position when established in accordance with law and regulation;
- (9) a complaint or allegation of discrimination.

non-selection from a group of properly ranked and certified candidates for promotion;

any reduction-in-force (RIF) actions taken under Part 352; or

prohibited personnel practice under Section 2302 (b) of Title 5

E. This negotiated procedure shall be the exclusive procedure available to the Union and the employees of the bargaining unit for resolving such grievances which fall within the coverage unless otherwise provided by Section 7121 (d) and (e) of the Federal Service Labor-Management Relations Statute.

Section 3. Grievance Procedure

For the purpose of this grievance procedure, a grievant will be granted up to four (4) hours of official time, the specific time to be determined by the supervisor, to prepare the grievance.

- A. Most grievances arise from misunderstandings or disputes which can be settled promptly and satisfactorily on an informal basis at the immediate supervisory level. Employees are encouraged to discuss such concerns with the supervisor (s) in the bargaining unit in order to achieve resolution of the problem. The Parties agree that every effort will be made to settle grievances at the lowest possible level. If the matter is not resolved informally, any grievance, except as otherwise provided for in Section 2, Part B, will be handled through the following procedures:

- Step 1.** Within 14 days from the occurrence that is a basis for a grievance, the employee must first discuss his/her complaint with his/her immediate supervisor. The immediate supervisor will orally respond to the employee within 7 calendar days from the receipt of the oral complaint.
- Step 2.** If there is no response by the immediate supervisor and/or the grievance is not settled, the employee will submit a formal grievance in writing to the second line supervisor or his/her designee. This must occur within 14 calendar days from the due date of the immediate supervisor's oral response. The grievance must be in writing, signed and dated by the grievant(s), and must indicate the name of the Union representatives and his/her telephone number. The grievance must state precisely the nature of the grievance and the personnel relief sought. It must be stated that this grievance is being filed in accordance with the negotiated grievance procedure and must also indicate the result of Step 1 in the process. A written decision will be issued within 14 calendar days of receipt of the grievance by the second line supervisor or Designee.
- Step 3.** If the grievance is not settled by Step 2, the employee(s) or the Union representative may forward a written grievance within 14 calendar days to the Chief, Police Branch, DPS, or his/her Designee, for further consideration. The Chief, Police Branch, or Designee, will issue a written decision within 14 calendar days after receipt of the grievance.

Step 4. If the grievance is not satisfactorily resolved at Step 3, the employees (or the Union representative may, within 14 calendar days, forward the grievance to the Collective Bargaining Official or Designee. The Collective Bargaining Official will issue a decision within 14 calendar days after receipt of the grievance.

Step 5. If the grievance is not satisfactorily settled at Step 4, the Union may refer the matter to arbitration within 21 days calendar days from the date of the Collective Bargaining Official's decision.

B If the complaint involves an affected disciplinary action or adverse action, reprimand, suspension, downgrade, removal, or other similar actions, the grievance will be initiated at that step of the negotiated grievance procedure which is one level higher than that of the deciding official on the action and the previous steps in the procedure will be ignored.

Section 4. All the time limits stipulated in this Article may be extended for a reasonable period of time upon advance written notification if mutually agreeable to the Parties. Failure on the part of the Employer to meet any of the indicated time limits will allow the grievant(s) or Union Representative to proceed to the next higher level for decision on the grievance. Failure on the part of the grievant(s) or Union to meet prescribed time limits at any step of this procedure will grant the Employer the authority to terminate the grievance at that step.

Section 5. In the event either party should declare a grievance non-grievable or non-arbitrable (i.e. position classification, non-selection), the original grievance shall be considered amended to include this issue. All disputes of grievability or arbitrability shall be referred to arbitration as a threshold issue in the related grievance.

ARTICLE XXII

Arbitration

Section 1. If the Employer and the Union fail to settle any grievance processed under the negotiated grievance procedure, such grievance may be submitted to arbitration upon written notice by either party within twenty-one (21) calendar days after issuance of the final decision.

Section 2. Within seven (7) calendar days from the date of the notice for arbitration, either party shall request the Federal Mediation and Conciliation Service (FMCS) to provide a list of seven (7) impartial persons qualified to act as arbitrators. The parties shall meet within seven (7) calendar days after receipt of such list. If they cannot mutually agree upon one of the listed arbitrators, then the Employer and the Union will each alternately strike one (1) arbitrator's name from the list of seven (7) until one name remains who shall be the duly selected arbitrator.

Section 3. The Federal Mediation and Conciliation Service shall be empowered to make a direct designation of an arbitrator to hear the case in the event;

A. either party refuses to participate in the selection of an arbitrator; or,

B. upon inaction or undue delay on the part of either party.

Section 4. If the parties fail to agree on a joint submission of the issue for arbitration, each shall submit a separate statement of the issue(s). The arbitrator shall make a final determination on the issue(s) to be heard.

Section 5. The arbitrator's fee and the expense of the arbitration, if any, shall be born equally by the Employer and the Union. The arbitration hearing will be held, if possible, on the Employer's premises during the regular day shift hours of the basic work week. All participants in the hearing shall be in duty status. A transcript of the arbitration hearing will be required if either party individually or if the parties mutually request one. If mutually agreed, the parties will share the cost. If unilaterally requested, the requesting party shall pay the full costs of the transcript and have sole access to the transcript.

Section 6. The arbitrator will be requested to render a decision as quickly as possible, but, in any event, no later than thirty (30) days after conclusion of the hearing unless the parties mutually agree to extend the time limit.

Section 7. An arbitrator's award shall be binding on the parties subject to the provisions of Section 7122 of the Federal Service Labor-Management Regulations Statute.

Section 8. Except as mutually agreed by the parties, arbitration will be conducted as oral proceedings.

Section 9. The arbitrator shall have the authority to interpret and apply the provisions of this Agreement. The arbitrator shall not have the authority to change, alter, amend, modify, add to, or delete from the Agreement, such right is a sole prerogative of the contracting parties.

Section 10. If the arbitrator has not already made a decision upon the arbitrability of a grievance, the arbitrator shall hear arguments regarding both the arbitrability and the merits of the case at the same hearing. However, the parties may mutually agree otherwise in instances such as highly complex cases which would involve several days of hearings .

ARTICLE XXIII
Disciplinary and Adverse Action

Section 1. As used in the Agreement, the term “disciplinary action” refers to a letter of official reprimand or a suspension for 14 days or less effected under Subchapter 1, Chapter 75, 5 U.S.C. As used in this Agreement, the term “adverse action” refers to: a removal, a suspension for more than fourteen (14) days, a reduction in grade, a reduction in pay, or a furlough of 10 days or less under Subchapter II, Chapter 75, 5 U.S.C.

Section 2. Any disciplinary or adverse action will be effected only for such cause as will promote the efficiency of the service. The Employee agrees that discipline will be administered in a fair and impartial manner.

Section 3. The Parties agree that Union members shall be given the opportunity to be represented by a person of their choosing when being examined by a representative of the employer in connection with an investigation if (a) the employee reasonably believes that the examination may result in disciplinary action against the employee, and (b) the employee requests representation. The Union has the right to be present during the examination.

Section 4. The Employer will issue a written proposal of a disciplinary or adverse action except for an official reprimand. The notice shall include the specific charges, proposed penalty, the name of the person to whom the reply is to be directed, where the employee may review the material upon which the action is based, advice on the employee’s right to representation, and the time limit for the receipt of a reply.

Section 5. The employee shall be given an extra copy of any proposal or decision for disciplinary or adverse action. It is the employee’s responsibility to transmit the copy to his/her representative if he/she elects to do so.

Section 6. A notice of decision to effect disciplinary or adverse action shall advise the employee of his/her grievance/appeal rights, and the time limits within which the appeal/grievance must be filed.

Section 7. In the event the employee is issued a notice of decision on a disciplinary or adverse action which is unfavorable to his/her, such notice shall be delivered at least 24 hours prior to effective date of the action.

Section 8. If an employee is to be served with a warrant or subpoena, the Employer will make every effort to assure privacy of delivery whenever possible, taking into consideration standard safety practices.

Section 9. Disciplinary and adverse actions, as defined in Section 1 of this Article, may be grieved in accordance with provisions stated in the negotiated grievance procedure. However, an employee may alternatively choose to submit an appeal of an adverse action decision to the Merit Systems Protection Board no later than twenty (20) days after the adverse action has been effected.

Section 10. The Employer agrees that when an internal investigation is ordered to be conducted against an NIH Police Branch employee, it will be conducted in a manner consistent with accepted investigation practices and as expeditiously as possible dependent on the circumstances of each case.

ARTICLE XXIV
Equal Employment Opportunity

Section 1. The employer agrees to provide equal employment opportunities for employees without regard to race, color, national origin, sex, age, marital status, creed, handicap, political affiliation, or membership in a labor organization.

Section 2. The Employer has a responsibility for promoting full realization of equal employment through a positive, continuing program in accord with directives from higher authority.

Section 3. The Union agrees to become a positive force in this endeavor and to become a partner with the Employer in the explanation and implementation of ideas and programs whereby equal employment opportunities will be achieved.

Section 4. The responsibility for counseling employees who allege discrimination based on race, color, creed, age, sex, national origin, or handicapping condition, and for the formal investigation and adjudication of EEO complaints rests with the Office of Equal Opportunity. It is further agreed that complaints of allegations of discriminatory practices will be processed in accordance with procedures established for this purpose by the Office of Personnel Management, Equal Employment Opportunity Commission, Merit Systems Protection Board, and DHHS.

Section 5. The Parties agree that effort will be made to utilize to the fullest extent the present skills of employees, by all means possible, and to provide maximum feasible opportunity for employees to enhance their skills through on-the-job-training, work study programs, job design measures, and other training programs, so that they may perform at their highest potential and advance in accordance with their abilities.

Section 6. The Union may submit nominations for EEO Counselors in accordance with the procedures established within the NIH policy.

Section 7. The employee agrees that the Union may nominate candidates for membership of the Office of Research Services Equal Employment Opportunity Advisory Committee (ORS EEO Advisory Committee) at such times as nominations are requested by the ORS.

ARTICLE XXV
Publicity

Section 1. The Employer will print and make available copies of this Agreement to all employees in the bargaining unit. Format for the printed contract will be decided by the Employer, and the cost of printing for this contract will be borne by the Employer.

Section 2. The Employer agrees that bulletin board space shall be provided in designated areas within the bargaining unit for the display of the Union literature, notices, etc. The Union assumes responsibility for maintaining information posted on the bulletin boards in an orderly and current status.

Section 3. Literature or notice will not contain propaganda against or attacks upon the Employer, individuals, or activities of the Federal Government.

Section 4. The President of the Union, or his designee, shall submit to the Chief, Police Branch, for his/her approval, a copy of any item which will be posted. The copy of the approved notice will be retained by the approving official.

Section 5. If the approving official has reasonable doubt about the appropriateness of the material, he/she may request the Union to submit the material to the ORS Labor Relations/ Employee Relations Specialist for a decision.

ARTICLE XXVI
Dues Deductions

Section 1. Employee may make voluntary allotments for the payment of Union dues. To be eligible, an employee must:

- A. be a member in good standing of the Union;
- B. be a member of the unit covered by the Agreement; and,
- C. have a regular net salary after other legal and required deductions sufficient to cover the amount of authorized allotment for dues.

Section 2. Any such allotment shall be made at no cost to the exclusive representative or the employee.

Section 3. Allotments will be made for the regular periodic amount of dues required to maintain the employee as a member in good standing of the Union. Initiation fees, special assessments, back dues, fines, and similar items are not dues.

Section 4.

- A. Dues will be withheld on a bi-weekly basis conforming to the regular pay-periods. The deductions will be initiated with the first full pay-period following receipt of the assignment form (SF-1187) in the ORS Personnel Office and necessary processing into the DHHS payroll system. Deductions will continue until terminated as provided in this article.
- B. A member may revoke his/her authorization by submitting Standard Form 1188 in duplicate to the Labor Management/Employee Relations Specialist. Revocations may become effective on the first anniversary date of the initial allotment or thereafter on the first full-pay period following September 1, provided that the revocation has been received in the ORS Human Resources Branch (Personnel Office) and the necessary processing into the DHHS payroll system has been completed prior to the designated effective date.

Section 5. The Union shall:

- A. make available to its members necessary authorization forms (SF-1187);
- B. certify on the SF-1187 the amount of dues to be withheld;

- C notify the ORS Labor/Employee Relations Specialist when an employee with an allotment ceases to be a member; in good standing;
- D notify the ORS Labor Relations/Employee Relations Specialist when there is a change in the dues (Changes may be made only once every 12 months); and
- E provide the ORS Labor/Employee Relations Specialist with the name and address of the individual to receive the check in payment of dues. It is agreed that the remittance checks should be made out to the Union.

Section 6. The Parties agree that there shall be a single level dues structure under this Agreement. The withholding account number for the unit is 226- Special Police Unit.

Section 7. A check in payment of dues shall be made payable to the individual identified in Section 5(e). That individual will also receive from the ORS Labor Relations/Employee Relations Specialist a listing in duplicate showing:

- A. the names of members for whom deductions are made and the amount deducted;
- B. total number of members for whom dues are withheld;
- C. total amount withheld; and,
- D. the net amount remitted.

Section 8. The ORS Labor Relations/Employee Relations Specialist shall notify DHHS Central Payroll if the Union loses exclusive recognition or if an employee is transferred or reassigned outside the Unit or is separated.

Section 9. It is agreed that the employee has responsibility for notifying the ORS Labor Relations/Employee Relations Specialist that his/her allotment should be terminated, by completing and forwarding a Standard Form 1188.

Section 10. Any Employee who is reassigned or promoted to a position outside the bargaining unit shall cease to be eligible for dues withholding. Deductions will be terminated at the beginning of the pay period in which the action becomes effective or as soon as possible thereafter. The affected Employees will be provided with the following notice:

Notice of Termination of Dues Withholding:

Regulations governing dues withholding to a labor organization require that dues withholding be automatically canceled whenever an employee is reassigned or promoted to a position outside the bargaining unit. You were recently subject to a reassignment or promotion which requires the termination of your dues withholding. The final dues withholding will be made for the last pay period in your old position. If you have any questions regarding the termination of your dues withholding, you may wish to contact the Union.

Article XXVII
Performance Appraisal Systems

Section 1. The Parties agree that the DHHS Employee Performance Management System as defined by DHHS Instruction 430-4 and related instructions and manual circulars will be applicable to employees.

Section 2. The Parties agree that the Labor Management Relations Committee may be utilized to discuss and consider recommendations regarding the operation of the performance appraisal system.

Section 3. The employer will administer the performance evaluation and performance management system in accordance with the provisions of the relevant issuances, rules, regulations and policies of the Department of Health and Human Services Personnel Instruction HHS 430-4 and the National Institutes of Health Instruction, NIH Manual 2300-430-1.

Article XVIII
Contracting Out

Section 1. It is the right of the Employer to make determinations with respect to contracting out, to determine the personnel by which operations shall be conducted, and to determine the technology of performing work. The Employer agrees to abide by all laws, rules, and regulations of the OPM and OMB, as well as Department policy in effect at the time with respect to contract activities.

Section 2. The Employer agrees to notify the Union if a decision is made to contract out or to change the work technology which would result in the abolishment of positions encumbered by unit employees.

Section 3. Upon request, the Employer will meet with the Union to discuss appropriate arrangements for employees whose positions will be abolished as a result of a decision to contract out or to change the technology of performing work.

Article XXIX Reduction in Force

Section 1. The Employer agrees to make reasonable effort to avoid or minimize a reduction in force by adjusting the work force through promotion, reassignment, or transfer of employees to available vacancies for which they are qualified.

Section 2. The Employer agrees to notify the Union of the necessity for a reduction in force as far in advance as practicable and of the reasons therefore. The Employer also agrees to inform the Union of the affected competitive levels and the number of employees affected, when this information is available.

Section 3. It is agreed that the Employer, to the extent consistent with the NIH manpower requirements, will make a reasonable effort to reassign employees whose positions are eliminated due to automation or adoption of labor saving devices.

Section 4. At no time will the Employer use a reduction in force procedure to circumvent the adverse action procedures.

Article XXX
Hazardous Duty Pay

Section 1. Pay for irregular or intermittent duty involving physical hardship or hazard for GS employees will be paid in accordance with the provisions of OPM regulations (5 CFR, Part 550, Subpart I).

Section 2. It is recognized that a determination must be made regarding whether the physical hardship or hazardous duties were used to determine the grade of the position. Upon request, the agency shall inform the employee or the Union whether or not such duties were taken into account in establishing the grade of the position; how the duties affected the grade established; and whether the grade would have been lower if those duties were absent.

Article XXXI
Wage Surveys

Section 1. The Employer agrees to forward to the DHHS recommendations of the Union regarding the need for wage surveys in specific occupational areas. Requests for such wage surveys shall be in writing and will be accompanied by supporting data. Requests for specific occupational area wage surveys will not be accepted more than once a year.

Section 2. The Employer agrees to notify the Union of pending wage surveys within a reasonable period of time after the Employer has been notified. The Employer also agrees to forward to DHHS requests by the Union for participation in wage surveys.

Article XXXII
Miscellaneous Provisions

Section 1. The Employer agrees that, in the event of an employee of the bargaining unit being killed in the line of duty, an officer may be assigned to the family of the deceased to assist in whatever manner necessary.

Section 2. The Employer agrees to provide a display case in the main lobby area of the police headquarters to prominently display any awards or trophies that are won by members of the NIH Police Branch during official agency or inter-agency competition.

Section 3. Suggestions and/or requests directed to the Chief of Police will be acknowledged as soon as possible.

Article XXXIII

Duration and Changes

Section 1. This Agreement shall remain in full force and effect for a period of three (3) years after its approval. It shall be automatically renewed for three (3) year periods unless: (1) either party gives the other party written notice of its intention to terminate or renegotiate this Agreement no less than sixty (60) nor more than ninety (90) calendar days prior to its termination date; or (2) at any time it is determined that the Union no longer is entitled to exclusive recognition for the Units covered hereunder as provided by law.

Section 2. Amendments to this Agreement may be required because of changes in applicable laws, rules, regulations, or policies issued by higher authority after the effective date of this Agreement. In this event, the parties will meet to negotiate regarding language that satisfies the requirements of such higher authority and regarding implementation.

Section 3. In the event it is found by either Party that sections of this Agreement are defective or unworkable, this Agreement may be reopened for amendment provided that written notice justifying the basis for the request is submitted by the Union or interested Management Official(s) to the ORS Labor Relations/Employee Relations Specialist, NIH, with a copy to the chief representative of the other party; and, provided further, that both parties consent to the reopening of the Agreement for the purpose requested. A written notice of desire to alter and amend by negotiation shall not have the effect of terminating this Agreement.

Section 4. The Parties agree that midterm changes may be made during the life of the Agreement where such changes are not in conflict with the Agreement. Prior to making changes in working conditions, the Employer will provide the Union with the opportunity to make negotiable proposals.

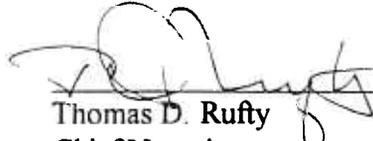
Section 5. All provisions of this Agreement not currently in effect and additions or changes referred to in Section 3 and 4 above, shall become effective upon approval as provided in the regulations.

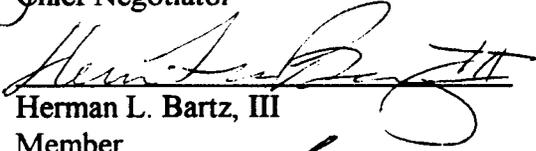
IN WITNESS WHEREOF the Parties hereto have entered into this AGREEMENT this 29th day of April, 1999.

FOR THE UNION:

FOR THE NATIONAL INSTITUTES OF HEALTH:

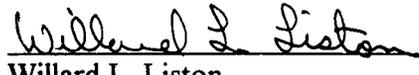

John R. Driscoll
Chief Negotiator


Thomas D. Rufty
Chief Negotiator


Herman L. Bartz, III
Member


Robert A. Beck
Member


Warren G. LaHeist
Member


Willard L. Liston
Member


Carolyn B. Klym
Employee Relations Specialist


Maria R. Gorrasi
Labor Relations Officer, NIH


Stephen C. Benowitz
Collective Bargaining Official, NIH

The effective date of this AGREEMENT is 7-19-99