

FILED

APR 05 2016

IN THE CIRCUIT COURT FOR THE SIXTH JUDICIAL CIRCUIT
MACON COUNTY, ILLINOIS

LOIS A. DURBIN
CIRCUIT CLERK

BRADLEY L. SWEENEY,)
Plaintiff,)
)
v.) No. 2016-L-18
)
CITY OF DECATUR, and TIM GLEASON,)
City Manager,)
Defendants.)

DEFENDANTS' SUPPLEMENT TO COMBINED MOTION TO DISMISS
PURSUANT TO 735 ILCS 5/2-619.1

Now come the Defendants, City of Decatur and Tim Gleason, by their attorneys, Featherstun, Gaumer, Postlewait, Stocks, Flynn & Hubbard, and for their Supplement to Combined Motion to Dismiss Pursuant to 735 ILCS 5/2-619.1, state:

1. Attached as Exhibit "A" to this Supplement is the Affidavit of Jim Getz providing foundation supporting the Court's consideration of provisions of the Decatur Police Department Procedures and Policies, including, more particularly, the following provisions:

DECATUR POLICE DEPARTMENT
GENERAL ORDER 16-09

* * *

PURPOSE

The purpose of this General Order is to set forth the rules of conduct for members of the Decatur Police Department.

I. DEFINITION OF LAWFUL ORDER

A. A lawful order shall be construed to be an order keeping with the performance of any duty prescribed by law, rule, or regulation for the Department; or for the preservation of order, efficiency, and proper discipline.

II. OBEDIENCE TO ORDERS

A. Orders of Superior Officers

1. Officers and civilians of the department shall obey and

2016-L-18

Defendants' Supplement to Combined Motion to Dismiss

Page 1 of 7

properly execute any lawful order emanating from any senior ranking officer.

* * *

F. Overruling Departmental Rules Prohibited

1. No command or supervisory officer shall knowingly issue an order which is unjust or tends to nullify a law, departmental rule or regulation, general or special order, or command issued by the Chief of Police or a superior officer.

* * *

H. Reporting Unlawful, Unjust or Improper Orders

1. Any officer or civilian who is given any unlawful, unjust, or improper order shall report in writing all facts concerning the incident, together with whatever action he has taken, to the Chief of Police through proper channels.

I.. Reporting Known Misconduct

1. Just as officers and civilians are required to report unlawful, unjust, or improper orders, they are also bound by ethics, morals and pride in themselves and the Department to immediately report any [perceived] misconduct on the part of fellow employees or officers that they become aware of. Employees who knowingly fail to immediately report such misconduct discredit themselves and the Department.

* * *

IV. PERSONAL CONDUCT

A. Duty to Abide by All Statutes, Laws and Ordinances.

1. All Department personnel shall obey and follow all statutes, laws, and ordinances. Any alleged violation may be cause for an administrative inquiry. Sanctions, up to and including termination, may result irrespective of any criminal proceedings.

V. PERFORMANCE

A. Duties of Officers

1. Officers of the department shall be charged with the enforcement of all federal, state, and local laws and ordinances; the preservation of the public peace; the protection of life and property; the prevention of crime; and the detection, apprehension, and prosecution of violators of the law.

2. The foregoing provisions of the Decatur Police Department procedures and policies may be considered in support of the pending 2-615 and/or 2-619(a)(9) portions of the Combined Motion to Dismiss. The policies and procedures of the Decatur Police Department are subject to judicial notice which renders them appropriate for consideration on a 2-615 Motion to Dismiss. *Reynolds v. Jimmy John's Enterprises, LLC*, 2013 Ill.App.(4th) 120139.

3. "Judicial estoppel" is a doctrine intended to prevent perversion of judicial process; it is to be applied where intentional self-contradiction is being used as means of obtaining unfair advantage in a forum designed for suitors seeking justice and to prevent litigants from playing fast and loose with the Courts. *Matter of Cassidy*, 892 F.2d 637, 641 (7th Cir., 1990). The doctrine of estoppel is intended to protect the Courts rather than the litigants so it follows that a Court, even an Appellate Court, may raise the estoppel on its own Motion in an appropriate case. *Id. at 641*. The circumstances under which judicial estoppel may be invoked are not reducible to any formulation of principle but may be used where collateral estoppel and equitable estoppel fail to protect the interest the rule is intended to serve. *Id. at 641*. Estoppel is applicable to inconsistent positions on facts or law. *Id. at 642*. Estoppel does not eliminate a claim or defense, but only prohibits a particular party from asserting the claim or defense. *Id. at 642*. Estoppel is an equitable concept, and its application is, therefore, within the Court's sound discretion. *Id. at 642*. Estoppel has been applied in circumstances where a party has taken a legal position prior to litigation and seeks to assert a contrary position in the litigation. *Dertz v. City of Chicago*, 912 F.Supp. 319, 326 (ND. IL, 1995). A person having a right (here a duty) to act that stands silent, offering no action, cannot later be heard to complain. See:

Geddes v. Mill Creek Country Club, Inc., 196 Ill.2d 302, 314 (2001).

4. In the first instance, the applicable policies and procedures cited above set forth Sweeney's duties when confronted with a request to follow what Sweeney alleges to be an unlawful order from City Manager, Tim Gleason. Sweeney had the duty to disregard the alleged unlawful order, the duty to refrain from participating in an unlawful act and the duty to report the unlawful request and unlawful transport, *in writing*.

5. At Paragraph 24 of Count I and Paragraphs 33 and 34 of Count II, Sweeney alleges a "good faith belief" that state law or policies had been violated by the "order" to drive Gleason to St. Louis and that "reasonable cause" to believe that violations of the law had occurred. The allegations regarding the conclusion drawn by Sweeney are ultimate fact allegations necessary to support either cause of action. However, Sweeney did not follow the departmental policies referenced above setting forth Sweeney's duties when forming such "good faith belief" or "reasonable cause determination." As such, Sweeney should be estopped from asserting a self-serving conclusion contrary to his duties arising under the Decatur Police Department procedures and policies (referenced above) and his statutory duty arising under 65 ILCS 5/11-1-2. (See Para. 6 of Combined Motion to Dismiss; see Para. 3 above.)

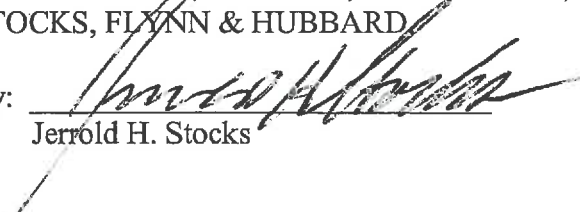
6. The allegations of the Complaint show that Sweeney did not perform any of the duties required from him *if he had reasonable cause* to consider the Gleason order and/or transport as unlawful. Thus, the Policies and Procedures of the Decatur Police Department supplement the contentions raised by the Defendants at Paragraphs 6 and 13 of the Combined Motion to Dismiss. Additionally, the closely related principle of estoppel described in Paragraph 3 above, is supported.

7. Sweeney's allegations that he believed in good faith that the transportation was a violation of law or policy are impeached by his failure to act. Notwithstanding, the use of the car for transportation of a City employee was not a violation, per se, of the Decatur Police Department policies and procedures when the use was approved by the Police Chief. [See Ex. 2 to Complaint, Policy: "It is recognized that in course of work day or nature of assignment there may occur certain circumstances that require or allow an employee to drive a departmental vehicle beyond the city limits"; also see: Ex 2. to Plaintiff's Complaint, Procedure I.4 and 6 - reposing determination for vehicle use to Chief of Police. The foregoing policies reaffirmed by Chief Sweeney in GO 15-25 on December 21, 2015] The authorization to use a Departmental vehicle is a determination made by the Chief of Police, here, Sweeney. Sweeney did not report or take any disciplinary action against Jim Getz, the police officer subject to the Decatur Police Department policies and procedures, for his role in the transport. The transport was authorized by Sweeney.

8. The allegations of the Complaint and the Procedures and Policies of the Decatur Police Department establish that Sweeney approved the transportation, participated in the alleged transportation and, if he actually thought that the transport was unlawful, then Sweeney breached any duty to report, arrest or take other action upon the belief that the order was unlawful or otherwise a violation of Department policy. Accordingly, Sweeney either was complicit in the complained of conduct or Sweeney is estopped from the remote after the fact assertion manifest in this Complaint. Allowing this cause of action to stand allows Sweeney to seek profit from his inconsistent actions.

CITY OF DECATUR, and
TIM GLEASON, City Manager,
Defendants,

FEATHERSTUN, GAUMER, POSTLEWAIT,
STOCKS, FLYNN & HUBBARD

By: 

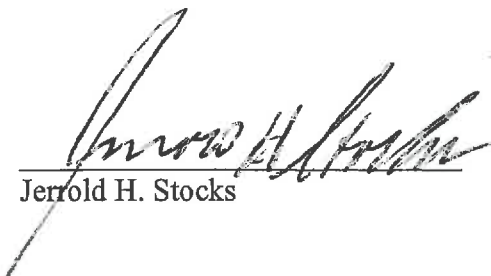
Jerrold H. Stocks

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E-mail: wfgpsf@decatur.legal
glw

CERTIFICATE OF SERVICE

I certify that on the 4 day of April, 2016, at 5:00 o'clock p. m., I deposited a copy of the foregoing in a U. S. Post Office Box at 225 North Water Street, Decatur, Illinois, enclosed in an envelope with proper postage prepaid, addressed to the following in the manner set forth: I also sent the same via electronic mail to the following:

E-Mail: jrobinson@brelaw.com
Jon D. Robinson
Bolen, Robinson & Ellis, LLP
202 South Franklin, 2nd Floor
Decatur, IL 62523



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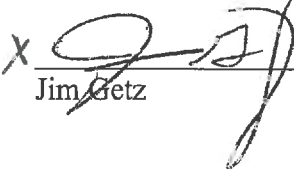
No. 2016-L-18

AFFIDAVIT OF JIM GETZ

I, Jim Getz, being duly sworn, do hereby affirm, if under oath, that if called as a witness, that I competently could testify to the following based on personal knowledge:

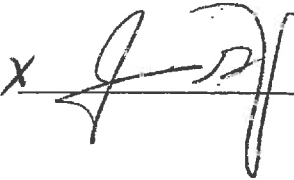
1. I am a custodian of the Policies and Procedures of the Decatur Police Department in my capacity as interim Police Chief for the City of Decatur and I have personal knowledge of the contents of said procedures for times relevant.
2. Attached as Attachment "1" to this Affidavit is Decatur Police Department General Orders:16-09 and 15-25 setting forth the policies and procedures. Provisions in BOLD are amendments as of date of the General Order. NON-BOLD provisions are the previous content continued after revision/amendment.
3. Attachment "1" are true and accurate copies of the original document in force and effect for the City of Decatur Police Department.
4. The NON-BOLD provisions in Attachment 1 are the content for said provisions in force on May 7, 2015 at the time of the transportation of City Manager Gleason from Decatur to St. Louis as is alleged in the Complaint.
5. I transported City Manager Gleason from Decatur, Illinois to the airport in St. Louis upon the order of the then Decatur Police Chief, Brad Sweeney. I did not

consider the act of transporting City Manager Gleason from the Decatur Civic Center, Gleason's place of employment and the location of the State of the City breakfast, to the St. Louis airport as a violation of law or a violation of a policy or procedure of the Decatur Police Department. Chief of Police Sweeney approved and ordered me to transport City Manager Gleason. I had no cause to question then Chief Sweeney.

X  _____
Jim Getz

CERTIFICATION

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief, and as to such matters, the undersigned certifies as aforesaid that he verily believes the same to be true.

X  _____

**DECATUR POLICE DEPARTMENT
GENERAL ORDER 16-09**

*changes in bold

SUBJECT:	RULES OF CONDUCT		
EFFECTIVE DATE:	03/04/16	NO. PAGES:	17
DISTRIBUTION:	All Personnel	RESCINDS:	GO 16-04
INDEX AS:	Rules of Conduct	REVIEW DATE:	Annually

PURPOSE

The purpose of this General Order is to set forth the rules of conduct for members of the Decatur Police Department.

I. DEFINITION OF LAWFUL ORDER

- A. A lawful order shall be construed to be an order keeping with the performance of any duty prescribed by law, rule, or regulation of the Department; or for the preservation of order, efficiency, and proper discipline.

II. OBEDIENCE TO ORDERS**A. Orders of Superior Officers**

- 1. Officers and civilians of the department shall obey and properly execute any lawful order emanating from any senior ranking officer.

B. Issuance of Orders

- 1. Orders from superior to subordinate shall be in clear and understandable language.

C. Chain of Command- Official Police Related Matters

- 1. All reports, memorandum, correspondence, or official notice to the courts shall be directed through the chain of command.
- 2. Prior to establishing any communication with the State Attorney's Office regarding a defendant's cooperation, or lack thereof, and any suggestion for or against potential leniency, the officer must first notify their direct supervisor of their intention to do so and be given the proper clearance to proceed.
- 3. All requests for vacation, holiday, accumulated leave, military leave, sick time, death leave, training, or any other reasons associated with a schedule change shall be directed through the chain of command.
- 4. In the event that the next direct level of command is unavailable, the second level of command may be contacted.
- 5. In regards to any allegation of misconduct, or any conduct which may be subject to review or investigation by the Professional Standards Unit, direct reporting to the **Administrative Operations Deputy Chief** or **Professional Standards Lieutenant** is allowed without following the direct chain of command. Any officer who reports alleged misconduct directly to the **Administrative Operations Deputy Chief** or **Professional Standards Lieutenant** shall

A-26.2

not be subject to discipline for violating the chain of command. The **Administrative Operations Deputy Chief** or **Professional Standards Lieutenant**, in consultation with the Chief of Police will determine if the nature of the allegation reported shall be investigated by the Professional Standards Unit, or referred to the appropriate shift command.

6. Violations of chain of command will be considered Insubordination.

D. Insubordination

1. Failure or deliberate refusal of any officer or civilian to obey a lawful order given by a superior officer shall be considered insubordination.
2. Ridiculing a superior officer or his orders, when in the presence of witnesses, shall constitute insubordination.

E. Relaying Orders of a Superior Officer

1. Orders given by an officer of equal or lesser rank shall be obeyed when said officer is relaying the orders of a superior officer. The officer delivering orders, of a superior, to an officer of equal or lesser rank shall make it clear who the orders are from.

F. Overruling Departmental Rules Prohibited

1. No command or supervisory officer shall knowingly issue an order which is unjust or tends to nullify a law, departmental rule or regulation, general or special order, or command issued by the Chief of Police or a superior officer (this rule is not to be construed to prevent supervisory personnel from granting emergency parking and traffic relief contrary to city ordinance).

G. Conflict of Orders

1. Upon receipt of an order conflicting with any previous order or instructions, the officer or civilian affected will respectfully advise the person issuing the second order of this conflict. Responsibility for countermanding the original instruction then shall rest with the individual issuing the latter order. If so directed, the latter command shall be obeyed. Orders shall be countermanded or conflicting orders shall be issued only when necessary for the good of the department.

H. Reporting Unlawful, Unjust or Improper Orders

1. Any officer or civilian who is given any unlawful, unjust, or improper order shall report in writing all facts concerning the incident, together with whatever action he has taken, to the Chief of Police through proper channels.

I. Reporting Known Misconduct

1. Just as officers and civilians are required to report unlawful, unjust, or improper orders, they are also bound by ethics, morals and pride in themselves and the Department to immediately report any perceived misconduct on the part of fellow employees or officers that they become aware of. Employees who knowingly fail to immediately report such misconduct discredit themselves and the Department.

III. DEPARTMENTAL POLICIES

A. Departmental Policy Regarding Rules and Regulations

1. It is the general policy of the department to place no restrictions upon the employees of the Police Department which are not restrictions commonly placed upon all employees of the

City. However, frequent exceptions to this general policy are necessary because of the special nature of the mission and functions of the police.

- B. Department personnel shall abide by applicable collective bargaining agreements. A failure to do so will result in an administrative inquiry.
- C. Residence and Telephone Requirements
 - 1. All members of the Department shall reside within the prescribed geographic limits as outlined by the current contractual agreement and City of Decatur Administrative Policy and Procedure. Employees are required to have an active telephone service. Change of address and/or telephone number shall be reported within 72 hours to the Office of the Chief of Police.
- D. Resignations/Retirements
- E. An officer or civilian who is resigning from the Department shall forward a written resignation or retirement letter to the Chief of Police. Such resignation or retirement letter should be submitted at least two weeks prior to the effective date. All resignations and retirements shall have an effective date of the employee's last working date, excluding scheduled days off. For purposes of this section, a working date shall include regular hours worked, vacation days, or other accumulated time.
- F. Earned Days and Postponement of Earned Days
 - 1. Earned days for department personnel shall be taken at the convenience of the employee and the Department. Whenever a condition exists that is deemed by the Chief of Police to be of an emergency nature, regular tours of duty may be extended and/or days off and earned days of any and all departmental personnel may be postponed.
- G. Civil Lawsuits
 - 1. Officers shall not institute any civil action arising out of their official duties without approval of the Chief of Police.
 - 2. Officers shall not accept or agree to accept, from any person or entity, any money or other compensation for damage sustained or expense incurred by them in the line of duty, without first notifying the Chief of Police.
 - 3. Any Department member who has a damage suit filed against them arising out of their official duties shall forthwith notify the Chief of Police of such lawsuit and provide a copy of the complaint.
- H. Testimonials
 - 1. Officers and civilians shall not permit their names or photographs to be used to endorse any product or services which are in any way connected with law enforcement, without the authorization of the Chief of Police. They shall not allow their names or photographs to be used in any commercial testimonials which allude to their position of employment with the Department, without the authorization of the Chief of Police.
- I. Uniforms
 - 1. Only authorized uniforms and equipment shall be carried or used by department personnel. Refer to "Uniforms and Equipment Specifications for Sworn Personnel", Index P-9.
- J. Care of Police Headquarters and Department Equipment

A-26.4

1. Personnel shall maintain the appearance of Police Headquarters and shall not intentionally damage, deface, dispose of, or destroy City owned or leased property unless so ordered by the Chief of Police or his designee.
2. Desks and work areas will be free of confidential and/or sensitive materials when the potential for unauthorized personnel to view the same exists. A prior notification to Department personnel shall be made when non-sworn personnel are being escorted through the Police Department or facility tours are being conducted.
3. All Command Officers will ensure that all offices, meeting rooms, work stations/ work bays under their responsibility are generally clean and kept orderly and professional in appearance.
4. No materials shall be affixed in any way to any wall in any Police Department facility without the permission of the Chief of Police. No items which could be construed as offensive in nature shall be posted or placed in a location visible to others.
5. Officers and civilian employees shall keep their lockers and work spaces neat and orderly. All lockers and work spaces are subject to inspection and employees have no expectation of privacy in such areas. Employees shall only use the locking mechanisms for the lockers and workspaces that are provided by the Department. No personal locking mechanisms are allowed.

K. Officer's Lunch and Break Periods

1. To prevent interference with the public operations, lunch periods for Department personnel will be assigned by their supervisor. Uniform police personnel will be cognizant of the public's perception of an excessive number of officers taking lunch or break periods at the same location at the same time. Supervisors will minimize such practice dependent on available restaurants. Personnel will advise the dispatcher by radio when going out of and returning to service. The time expended for lunch or break periods shall be kept to a minimum and at no time shall it exceed thirty (30) minutes for lunch and fifteen (15) minutes for a break.

L. Political Activity

1. As a City employee, you are engaged in the business of providing public service. City employees are encouraged to exercise their full political rights to engage in political activities so long as the employee does not use his official position to coerce or influence others and does not engage in political activities while he is at work on duty.

IV. PERSONAL CONDUCT

A. Duty to Abide by All Statutes, Laws and Ordinances

1. All Department personnel shall obey and follow all statutes, laws, and ordinances. Any alleged violation may be cause for an administrative inquiry. Sanctions, up to and including termination, may result irrespective of any criminal proceedings.

B. On Duty and Off Duty Conduct

1. Officers and civilians shall conduct themselves in their private and in their professional lives in such a manner as to avoid bringing discredit to themselves or the department.
2. Command Staff, officers, trainers, and civilians shall not date or become unduly familiar with police applicants, probationary officers, student interns or ride-along participants during the period of time such individuals are continuing to participate in the specific program that involves them with the Department.

3. Officers and civilians shall maintain their personal finances in such a manner as to avoid bringing discredit to themselves or the department, or to interfere with department operations.

C. Maintaining a Good Public Image

1. It is the policy of the Department that police officers and civilian personnel shall strive to gain public support by being efficient, unbiased, and professional. They shall not publicly criticize the work, manner, or the performance of duty of any other members, nor convey any scandalous or prejudicial statements about other department personnel. Officers and civilians shall not conduct themselves in an immoral, indecent, lewd, or disorderly manner, or in a manner that might be construed by an observer to be immoral, indecent, lewd, or disorderly.
2. Department personnel shall be kind, patient, courteous, and respectful in their dealings with the public. On occasions calling for regulation and control, the attitude of all personnel shall be objective, impersonal, and firm, and they shall remain calm and even tempered, regardless of the provocation to do otherwise. Personnel shall not use harsh, violent, profane, or insolent language to anyone. Upon request, and in a professional manner, sworn personnel shall supply their name, rank and badge number and civilian personnel shall supply identifiers per their operating policy.

D. Association With Coworkers

1. Officers and civilians shall treat superior officers, subordinates, and all associates courteously and with respect. When on duty and in the presence of the general public, each shall conform to the normal standard of courtesy and refer to each other by title or rank.

E. Intoxicants

1. Officers in uniform shall never consume intoxicating beverages, whether on or off duty. Officers shall not consume intoxicating beverages while on duty except in the performance of a police investigation, and such consumption shall be authorized by a commanding officer. Officers and civilian employees shall not use intoxicating substances, whether on or off duty, regardless of location used, which would be considered illegal if used within the City of Decatur, Illinois. Uniformed officers shall not purchase alcoholic beverages while on duty. Civilians are forbidden from consuming intoxicants while on duty.

F. Prescription Medication

1. All personnel taking any prescription medication which may impair their ability to perform their duties shall notify their command officer or supervisor. Command or supervisory personnel shall not permit an employee under their command to perform their duties while impaired.

G. Intoxicating Beverages Off Duty

1. Department members shall not consume intoxicants while off duty to the extent that evidence of such consumption is apparent when reporting for duty or to the extent that ability to perform duty is in any way impaired. The odor of alcoholic beverages on the breath of any employee at the beginning, or during their tour of duty, is forbidden except as permitted in Section IV, paragraph E., 1.

H. Smoking /Tobacco Use While on Duty

1. Officers and civilians shall not smoke, chew tobacco, or vape while engaged in direct contact with or while serving the public. Officers and civilians shall not smoke inside any City of Decatur owned or leased facilities.

A-26.6

2. The use of all tobacco related products, including vaping devices, is prohibited in all Police Department vehicles.

I. Rewards and Gifts

1. Officers and civilians shall not accept nor solicit, either directly or indirectly, any gift, service, gratuity, loan, fee, discount, so-called kickbacks, or anything of value for services rendered in the line of duty; the acceptance of which might tend to influence directly or indirectly the actions of said officer or civilian; or which might tend to cast an adverse reflection on the Department or any officer or civilian.
2. No command officer shall receive any gift or service from a member of his command unless authorized by the Chief of Police.
3. Should any reward come into the possession of any officer for a service rendered, this reward together with a written report explaining the circumstances connected therewith shall be forwarded to the Chief of Police. If at all possible, such rewards shall be returned to the giver through the Professional Standards Division. When a return is not possible, upon approval of the Chief of Police, the reward will be deposited in an account such as Crimestoppers or the Decatur Police Foundation.

J. Soliciting Business

1. Officers and civilians shall not solicit subscriptions or contributions; sell papers, tickets, merchandise, services, etc.; collect or receive money or other items for any religious, charitable, or fraternal organization while on duty, without the permission of the Chief of Police.
2. Officers and civilians shall not solicit subscriptions or contributions; sell papers, tickets, merchandise, etc., collect or receive money or other items of value, for any religious, charitable or fraternal organization, while off duty, wherein the solicitor, seller, or collector identifies himself as a member of the Decatur Police Department, without the permission of the Chief of Police.

K. Recommending Outside Services

1. Officers and civilians shall not suggest, recommend, or advise the retention of any person providing business or services in the private sector, to any person coming to their attention as a result of any official police action.

L. Testifying for the Defendant

1. Any officer or civilian subpoenaed to testify in behalf of any defendant in a criminal trial, or litigation against the City of Decatur or the Decatur Police Department, shall notify his commanding officer, or the Macon County States Attorney, or the City Attorney, whichever is applicable.

M. Subpoenas

1. Disciplinary action will result for failure of an employee to appear in court on the date and time designated on their subpoena, or for failure to appear at a time, date and place commanded by prior written notification from the City's Legal staff or a commanding officer for City Ordinance violation hearings or meeting(s) in preparation thereof.

N. Soliciting Influential Aid

1. No officer shall seek the influence or intervention of any member of the Civil Service Commission, City Council, or any person outside the department, for the purpose of personal preferment, advantage, or advancement within the Decatur Police Department.

V. PERFORMANCE

A. Duties of Officers

1. Officers of the department shall be charged with the enforcement of all federal, state, and local laws and ordinances; the preservation of the public peace; the protection of life and property; the prevention of crime; and the detection, apprehension, and prosecution of violators of the law.

B. To be Firm and Impartial

1. Officers shall discharge their duties in a firm, impartial and efficient manner. They shall act promptly and decisively at scenes of crimes, disorders, accidents, disasters, and all other situations that require police attention.

C. Off Duty Actions/Arrests

1. Officers who are off duty, within the jurisdiction of the City of Decatur, are not relieved from the responsibility of taking proper police action on any matter coming to their attention. Officers shall only take off duty action for a serious felony incident or when death or great bodily harm is imminent. Off duty officers shall not concern themselves with minor incidents or traffic violations.
2. Officers shall not make arrests in their own families' quarrels except under grave circumstances that would justify them in using measures of self defense. Every effort should be made to notify on duty personnel, including supervisory personnel.

D. Duty to Keep Informed

1. It shall be the responsibility of every officer and civilian of the department to thoroughly familiarize themselves with the rules, regulations, orders, and the policies of the department and to abide and conform to the same. Each officer must have a working knowledge of all laws and ordinances. Officers and civilians shall observe such laws and ordinances. In the event of improper action or breach of discipline, it will be presumed that the officer or civilian was familiar with the law, rule, or policy in question.

E. Reporting for Duty

1. Officers and civilians shall be punctual in reporting for duty, including all scheduled training. Unless otherwise directed, uniformed officers shall report for roll call at the time and place specified, properly uniformed, and equipped. Personnel will be in the squad room by the hour at which their tour of duty is scheduled to begin.
2. Unless roll call training or emergency information being passed on requires more time, all duty officers will be on the street and in service by 15 minutes after the hour at which their tour of duty was scheduled to begin.

F. Remaining on Duty Until Relieved

1. Officers shall remain at their assignment and on duty until properly relieved and/or until officially dismissed by a commanding officer. No shift command officer will finish their tour of duty and leave until the shift command officer of the oncoming shift has arrived and is present in the Law Enforcement Center. Uniformed field officers shall not return to Police

Headquarters until ten (10) minutes before the end of their tour of duty, unless authorized to do so.

G. Availability When On Duty

1. Officers on duty shall not conceal themselves except for the furtherance of the police objective. Officers who are stationary for field report writing, field training etc., shall remain highly visible in an effort to deter crime and traffic violations. They shall be immediately and readily available during duty hours, and shall immediately respond to lawful orders of superior officers. Officers with MDC or radio equipment shall immediately advise the dispatcher when they go in and out of service. Since a commanding officer is not on duty constantly in the Investigations Division, those detectives working those hours shall fall under the functional supervision of the ranking departmental command officer on duty at Police Headquarters.

H. Prompt Response To Calls

1. Although emergency calls take precedence, all calls shall be answered as soon as possible, consistent with normal safety precautions and traffic laws. Shift Command officers shall monitor and ensure that officers respond to CFS in an efficient and professional manner. Except under the most extraordinary circumstances, no officer shall fail to answer any radio call directed to him.

I. Use of Personal Electronic Devices

1. Officers shall not use or have in their possession any personal laptop, IPOD, IPAD, DVD player or similar device while on duty in a department vehicle without the direct approval of a command officer. This approval shall be for work related functions only. This order does not restrict the possession of personal cell phones, including smart phones.

J. Sleeping While On Duty

1. Officers on duty shall be constantly alert throughout their tour of duty. Sleeping on duty is forbidden.

K. Patrolling Districts and Beats

1. Officers shall patrol their beats and districts, being vigilant and watchful for needed police services. They shall not leave their beat, post, district, or assignment, including the time they are completing reports in the field, except as authorized by a superior officer or in the discharge of a police duty.

L. Maintaining an Awareness of Duty

1. Officers shall study and familiarize themselves daily and upon return from absence, with all notices, orders, instructions, wanted circulars, or other directives. They shall record information relating to cases they are assigned, wanted persons, stolen cars, etc.; and matters of concern to the department and to the efficient performance of their duties.

M. Completing Official Reports

1. Officers shall make reports promptly, accurately, and completely. Reports relating to arrests or critical investigations shall be submitted to a command or supervisory officer for approval before going off duty unless the reporting officer is otherwise instructed.
 - a. Preliminary reports involving UUMV's or Illegal Sound Amplification violations are to be completed before going off duty to ensure that necessary information is available for Administrative Hearings.

2. Officers shall complete reports in the field whenever applicable. Officers shall remain highly visible in an effort to deter crime and traffic violations. With the approval of a command officer, officers may complete reports at the **Decatur Police Department**.

N. Duty to Act

1. All on duty officers shall employ all lawful means at their disposal in the investigation, arrest, and prosecution of any person observed, or known to be violating or who has violated, any law or ordinance pertaining to criminal matters, traffic offenses, or vice activities. Officers shall act promptly, professionally, and with firmness at the scene of crimes, disorders, accidents, disasters, or other situations that require police attention.

O. Giving Notice in Emergencies

1. Officers shall notify or cause the dispatcher to be notified of an immediate or eminent emergency. All police officers shall take appropriate police action toward aiding a fellow officer exposed to danger or impending danger.

P. Reporting Use of Force, Accidents, and Injuries

1. A written report shall be made in all cases where a police officer uses force.
2. Officers shall immediately report all traffic accidents in which they are involved as well as any injuries received in the line of duty to their supervisory or command officers.
3. All personal injuries received while off duty that may interfere with their ability to perform their duties shall be reported in a like manner.

VI. APPEARANCES

A. Personal Appearance

1. Unless otherwise authorized by their Division Deputy Chief or the Chief of Police, on duty personnel shall be neat and clean (whether in uniform or in plain clothes), shall be reasonable in their hair style, and shall be clean shaven.

B. Maintenance of Uniforms

1. Uniforms are to be kept clean and pressed; leather and accessories dyed and polished; metal parts shined; and firearms and handcuffs shall be kept clean and in serviceable condition.

C. Badge and Departmental Identification Cards

1. Officers shall not exchange badges or identification cards with other officers. If the badge or identification card is lost or stolen, a written report explaining the circumstances shall be submitted to the Chief of Police. **The DPD Identification card is also utilized as the electronic device access to the Decatur Police Department facility.** Officers shall not permit any other person to use their badge or identification card at any time. **The only exception shall be utilization of the police identification card to gain Police Department electronic access in the event another sworn officer's identification is malfunctioning.** When off duty, an officer may carry the badge at his discretion, but he must carry the Departmental identification card at all times.

VII. TRANSMISSION OF INFORMATION

A. Request for Assistance and Information

1. Officers and civilians shall fulfill authorized requests for information and assistance. Members shall avoid giving the impression that they are evading the performance of their duties or that they are not interested in the problems brought to their attention.
2. No information about any former employee of the Department shall be given out to any persons inquiring. All such requests for information shall be referred to the City's Human Resources Division.

B. Release of Criminal Record Information

1. Prior criminal records of individuals may not be released to any person except an authorized employee of an official law enforcement agency, or unless authorized by the Chief of Police.

C. Official Business Confidential

1. Officers and civilians shall treat as confidential the official business of the department and shall not reveal police information which includes information from police reports, calls for service, database resources, intelligence systems or any other source including photo or video images except as provided by Department procedure, by law, or by competent authority. Information contained in police records, other information ordinarily accessible, the names of informants, complainants, witnesses, and other persons known to the police are considered confidential. Officers and civilians shall not access police resources for personal reasons.

D. Internet Access

1. Only the Chief of Police will authorize and recommend, to City Administrators, that members of the Department be granted access to Department Internet service or E-mail. Those members having access to Departmental Internet service or E-mail shall only use these services for the authorized performance of their assigned duties. Officers and civilian employees shall not send any inappropriate, immoral, indecent, lewd, disorderly messages, photographs via the Department E- Mail. Officers and civilian employees should respect the chain of command when sending E-Mails.

E. Social Networking Sites-Prohibited Transmissions

1. While employees of the Decatur Police Department are not prohibited from participating in off duty personal web page communications or sites, any reference made about the Decatur Police Department, or any of its employees, or information concerning crimes, accidents, violations of ordinances or state statutes, obtained while in an official capacity, shall not be shared without approval from the Chief of Police. Any on-duty related information obtained by an employee shall be treated as confidential and official.
2. Employees, excluding those utilizing the site(s) for official police duties, are prohibited from using city-provided computer equipment, services, or other devices to review, communicate or post information on social network sites. Examples of Social Network sites include, but are not limited to, Facebook, Twitter, E-Harmony, MySpace, Match.com, and other sites that require registration to participate in the network.
3. No sworn or civilian employee shall represent themselves, directly or indirectly, in any public forum as an employee of the Decatur Police Department either by text, photograph, or image depicting the uniform, badge, or patch, in any manner that reflects a lack of good moral character.
4. No employee shall represent themselves in any public forum as an employee of the City of Decatur and share any of the following without approval of the Division Deputy Chief or Chief of Police.

**DECATUR POLICE DEPARTMENT
GENERAL ORDER 15-25**

***Changes in bold**

SUBJECT:	USE OF DEPARTMENTAL VEHICLES OUTSIDE CITY LIMITS & TAKE HOME VEHICLES.		
EFFECTIVE DATE:	12/21/15	NO. PAGES:	2
DISTRIBUTION:	All Personnel	RESCINDS:	11-03
INDEX AS:	Use of Departmental Vehicles; Outside City Limits; Take Home Cars; Departmental Vehicles; Driving Outside City Limits	REVIEW DATE:	Annually

POLICY

It shall be the general policy of The Decatur Police Department that no police vehicles; marked or unmarked, shall be driven outside the city limits. It is recognized that in the course of a work day or nature of assignment, there may occur certain circumstances that require or allow an employee to drive a departmental vehicle beyond the city limits. It is further recognized that due to the nature of an assignment or position, a vehicle may be assigned exclusively to a Law Enforcement Officer; referred to as "Take Home Vehicle".

PROCEDURE

I. EXCEPTIONS ALLOWING OPERATION OF DEPARTMENTAL VEHICLES OUTSIDE CITY LIMITS

A. Employees shall not drive or utilize departmental vehicles outside the city limits of Decatur, Illinois unless:

1. They are actively engaged in assisting another officer, whether it is of this department or an outside agency and then, only with the express prior permission of a supervisory officer;
2. They are engaged in a foot or vehicular pursuit normally referred to as "hot pursuit", or responding to an emergency situation based on mutual aid agreements.
3. They are going to or from authorized training that has received prior approval of the Chief of Police and City Manager, and for necessary travel during the course of that training;
4. Under the guidelines of City of Decatur Administrative Policy E-510, a department director may authorize an employee to take a vehicle home if the nature of his/her duties and responsibilities require the availability of a vehicle full time during and after normal work schedules.
 - a. The Chief of Police is the only authority to officially determine, and authorize a take home vehicle for an employee of the Decatur Police Department. The Chief will notify the City of Decatur Fleet Supervisor of individuals assigned and authorized to take vehicles home.
 - b. A take home vehicle will only be officially authorized for, used, and operated by a full-time Law Enforcement Officer; a paid city employee-MSF Fleet Technician is authorized to operate a marked or unmarked vehicle for the sole purpose of maintenance-repair issues.
 - c. In accordance with IRS Treasury regulations, full-time law enforcement officers authorized a take home vehicle; marked or unmarked, must utilize the vehicle incident to law enforcement functions, such as being able to report directly from home to a stakeout or surveillance site, or to an emergency situation. Use of an unmarked or marked vehicle for vacation, recreation

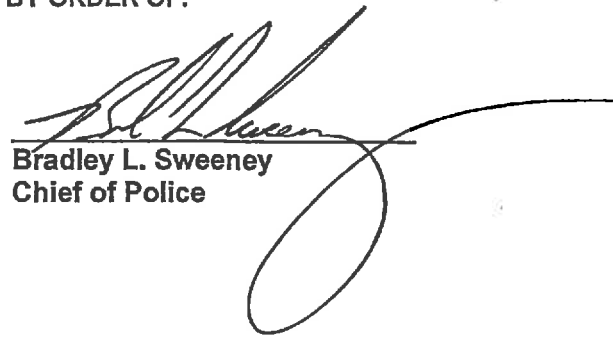
trips or personal use is not a qualified use under the IRS Treasury regulations and shall be a prohibited practice by any employee of the Agency authorized a take home vehicle.

5. They are subpoenaed to court or assigned to an investigation for which travel outside the city limits has been authorized by the Division Deputy Chief and the Chief of Police;
6. They are attending a business related meeting with approval of the Chief of Police;
7. They have been granted permission by their commanding officer in advance to leave the city. Any time permission is granted (outside the restrictions articulated below), the commanding officer shall so notify his Division's Deputy Chief and/or Chief of Police as soon as practical; or
8. They are going to or from a location no further than 3.0 miles outside the city limits for the sole purpose of taking their authorized meal break. Departmental vehicles may not be driven to restaurants or any retail establishment outside the city, for any purchases without prior permission from the on duty shift commander.

II. FURTHER RESTRICTIONS

- A. Beyond the exceptions listed in I., A., 6., above, under no circumstances, shall a departmental vehicle be used outside the city limits for personal errands or business.
- B. Employees shall not be permitted to add attachments, or make alterations to city vehicles.
- C. All existing rules and regulations governing the operation of departmental vehicles shall also apply when operating the vehicles outside the city limits.

BY ORDER OF:



Bradley L. Sweeney
Chief of Police

DISTRIBUTION: A