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Massena, Village Of And Massena
Police Protective Assn

AGREEMENT

By and Between the

**MASSENA POLICE
PROTECTIVE ASSOCIATION**

AND THE

VILLAGE OF MASSENA

JUNE 1, 2002

through

MAY 31, 2005

RECEIVED

JAN 09 2003

NYS PUBLIC EMPLOYMENT
RELATIONS BOARD

TABLE OF CONTENTS

TABLE OF CONTENTS	2
ARTICLE I – RECOGNITION	4
ARTICLE II – CONFORMITY TO LAW	4
Section 1. Conformity	4
ARTICLE III – BOARD FUNCTIONS	4
ARTICLE IV – MANAGEMENT RIGHTS	4
Section 1. Rights:	4
Section 2. Other Rights	5
ARTICLE V – ORGANIZATIONAL RIGHTS	5
ARTICLE VI – MEMBERS RIGHTS	5
Section 1. Investigations:	5
Section 2. Testing	6
Section 3. Files	6
ARTICLE VII- RESPONSIBILITY FOR FOLLOWING PROCEDURES OF AGREEMENT	7
Section 1. Cooperation	7
Section 2. Police Committee	7
ARTICLE VIII – SERVICE	7
Section 1. Service Time	7
ARTICLE IX – WORKING HOURS	8
Section 1. Shift Cycle and Hours	8
Section 2. Staffing	9
Section 3. Absences	9
Section 4. Compensation	9
Section 5. Overtime	10
Section 6. Swapping of Shifts	10
Section 7. Reverting to 8 Hour Shifts	11
Section 8. Investigators	11
ARTICLE X – EMPLOYEE RESPONSIBILITY	12
ARTICLE XI - UNIFORMS AND UNIFORM MAINTENANCE	12
Section 1. Uniform Provision	12
ARTICLE XII – SICK LEAVE REGULATIONS	12
Section 1. GML 207c Disability	12
Section 2. Death Benefits	13
Section 3. Sick Leave Credits	13
Section 4. Sick Leave Debits	13
Section 5. Sick Leave Accumulation	14
Section 6. Restrictions	14
Section 7. Proof of Sickness or Disability	14
Section 8. Compensation Benefits	14
Section 9. Extended Sick Leave	14
Section 10. Petitions for Extension	15
Section 11. Light Duty	15
ARTICLE XIII – ANNUAL PHYSICALS	16
ARTICLE XIV – RETIREMENT	16
ARTICLE XV – HEALTH INSURANCE	16
ARTICLE XVI – LIFE INSURANCE	17
ARTICLE XVII – BEREAVEMENT	17
ARTICLE XVIII – VACATION SCHEDULE	18
Section 1. Accrual	18
Section 2. Use	18
Section 3. Retirement	18
ARTICLE XIX – HOLIDAYS	19
Section 1. Dates	19

ARTICLE XX – COMPENSATION TIME.....	19
Section 1. In Lieu of Training Overtime.....	19
Section 2. In Lieu of Overtime Worked.....	20
ARTICLE XXI - LONGEVITY	20
ARTICLE XXII – PERSONAL LEAVE DAYS.....	20
ARTICLE XXIII – WAGES	20
Wage Table.....	21
ARTICLE XXIV – SECONDARY EMPLOYMENT	22
Section 1. Regulations	22
ARTICLE XXV – GRIEVANCE PROCEDURE	23
Section 1. Step 1	23
Section 2. Step 2	23
Section 3. Step 3	23
Section 4. Arbitration.....	24
ARTICLE XXVI – AGENCY SHOP.....	25
ARTICLE XXVII – TOTALITY OF AGREEMENT	26
ARTICLE XXVIII – PERIOD OF AGREEMENT	26
APPENDIX 5 – K9 AGREEMENT	

ARTICLE I – RECOGNITION

- A. The Board of Trustees of the Village of Massena (herein after also referred to as the “Village”) recognizes the Massena Police Protective Association (herein after also referred to as the “MPPA”) as the exclusive bargaining agent for all full-time, regular police officers of the police department (except the Chief of Police).

ARTICLE II – CONFORMITY TO LAW

Section 1. Conformity

- A. If any provision of this agreement is or shall at any time be contrary to law, then such provision shall not be applicable or performed or enforced, except to the extent permitted by law.
- B. In the event that any provision of this agreement is or shall at any time be contrary to law, all other provisions of this agreement shall continue in effect.
- C. It is agreed by and between the parties that any provision of this agreement requiring legislative action to permit its implementation by amendment of law or by providing the additional funds thereof, shall not become effective until the appropriate legislative body has given approval.

ARTICLE III – BOARD FUNCTIONS

- A. The Board of Trustees of the Village of Massena shall operate and manage the police department in accordance with the provisions of Article 8 of the Village Law of the State of New York, including the management and direction of the police department in the manner set forth in that article, which it is understood will include the actions of the Mayor and Trustees as ex-officio members of the police department and subject to the restrictions contained in that article, shall have the power to plan, direct, and control the activities of the police department subject to the restrictions contained in that article, and subject to the provisions of this contract, it being understood that if at any point this contract conflicts with the provisions of law affecting the powers and duties of the Village Board of Trustees as police commissioners of the Village, that the contract shall be deemed in respect null and void.

ARTICLE IV – MANAGEMENT RIGHTS

Section 1. Rights:

- A. The right to hire and maintain order and efficiency is the sole responsibility of the Village of Massena.
- B. The right to discipline and discharge for cause are rightfully the sole responsibility of the Village of Massena provided that claims of discriminatory discipline shall be subject to the grievance procedure and/or public employee procedures.

Section 2. Other Rights

- A. The Massena Police Protective Association recognizes other rights and responsibilities belonging solely to the Village of Massena, prominent among them, but by no means wholly inclusive, is the unrestricted right to instruct its employees as to their normal duties and to set up the most efficient operating schedules and procedures that do not violate other provisions of this agreement.

ARTICLE V – ORGANIZATIONAL RIGHTS

- A. The Village of Massena recognizes the right of the policemen to designate representatives to appear on their behalf to discuss salaries, working conditions, grievances and disputes as to the terms and conditions of this contract and visit policemen during working hours, but shall not conflict with normal police operations.
- B. The designated police representative shall also be permitted to appear at public hearings before the Board.

ARTICLE VI – MEMBERS RIGHTS

Section 1. Investigations:

- A. When any member is the object of any investigation, the member shall be advised of the nature of the investigation. To insure that such investigations are conducted in a manner conducive to good order and discipline and at the same time observing and protecting the individual rights of each member of the department, the following rules and procedures are hereby established.
1. The interrogation of any member of the department shall be at a reasonable hour, preferably when the member is on duty and during daylight hours unless the nature of the investigation dictates otherwise. The determination is to be the decision of the Chief of Police.
 2. Interrogation of any member shall be held at the village offices (police station) unless the nature of the investigation dictates otherwise.
 3. The interrogation shall be completed with reasonable dispatch and, if necessary, a reasonable time will be allowed for meals.
 4. The member shall also be provided time for personal necessities and telephone calls.
 5. The member shall not be subjected to any offensive language or threatened with dismissal or other disciplinary action and no promise of reward shall be made as an inducement to answering questions.
- B. In all cases where a member is or may be charged with a violation or infraction of the departmental rules, which, if proven, may result in the member's dismissal or disciplinary action, the member shall be afforded, if desired, a reasonably allotted period of time to contact, consult, and have present before questioning or appearance before a hearing, an attorney of the member's own choosing and/or a representative of the Massena Police Protective Association. Such attorney and/or representative of the Massena Police Protective Association shall be allowed to be present during all (stages) of the proceedings, if the member so desires, and shall be further allowed to counsel the member whenever necessary.

- C. There shall be no "*off the record*" questions.
- D. The complete proceedings shall be recorded mechanically or by stenographic or both. Upon request of the member, the member shall be given an exact copy of any written statement executed and an exact copy of the transcript of the proceedings. All recesses shall be noted in the transcript.
- E. If any member is under arrest or likely to be placed under arrest, that is if the member is the target or suspect of a criminal investigation, the member shall be advised of their rights under the Supreme Court's "Miranda" decision.
- F. If a member is the target or suspect of a criminal investigation, the member shall not be ordered to submit any written statements, nor sign any other than is provided in the New York Code of Criminal Procedure.
- G. If a member is the target or suspect of an infraction or violation of the department rules and regulations, the member shall be allowed to consult with the member's attorney and/or union representative.

Section 2. Testing

- A. No member shall be ordered to take or be requested to take a polygraph test for any reason. Such test may be given if the member so requests.
- B. A police officer may be ordered to submit to a breath, urine or blood test where there is demonstrated cause to believe that an officer is working under the influence of alcohol. The Chief of Police or designee will be the only police official with the authority to order a police officer to submit to said testing. The procedure for demonstrated cause testing has been negotiated between the parties hereto and is detailed in the Village of Massena Alcohol Policy. (see APPENDIX 4)
- C. On an annual basis, a maximum of 25% of the total force may be subjected to random drug testing in accordance with policies and procedures described in the Village of Massena Drug Testing, which have been negotiated between the parties hereto and are detailed in the Village of Massena Drug Testing Policy. (see APPENDIX 2)

Section 3. Files

- A. Each member of the department has the right to review their personal file, and to respond to any items contained herein. The member also has a right to a copy of any material contained in such file.
- B. The M.P.P.A. will assist the Village in preparing and adopting an agreement for new hires that will recover the costs of training, if any, should the new employee voluntarily resign from the department.

ARTICLE VII- RESPONSIBILITY FOR FOLLOWING PROCEDURES OF AGREEMENT

Section 1. Cooperation

- A. The MPPA and the Village recognize that cooperation between management and employees is necessary to accomplish the purposes for which they exist and that such cooperation rests squarely on mutual understandings arrived at through collective bargaining. Therefore, the MPPA and the Village hereby agree as to rates of pay, hours of work and other working conditions, and procedures for adjustments of disputes and grievances and to promote management-labor cooperation.
- B. The Village and MPPA as representatives, accept responsibility to follow the procedures set forth in this agreement for the settlement of issues and disputes. The MPPA will not permit its members to engage in any strike or other stoppage or cessation of work.

Section 2. Police Committee

- A. The MPPA and the Village recognize that cooperation between management and employees is essential. The Police Committee has been established to create an effective means by which to foster such cooperation.
- B. The members of the Police Committee shall meet to consider such matters as the promotion of education and training; the correction of conditions making for misunderstandings; the encouragement of courtesy in the relations of employees with the public; the safeguarding of health; the prevention of hazards to life and property; the improvement of quality of service; the reduction and elimination of expenses not essential to the public's safety; and other matters which strengthen morale and promote sound fiscal management of the department.
- C. The Police Committee actions shall not interfere or contradict the grievance procedure as described in Article XXV.

ARTICLE VIII – SERVICE

Section 1. Service Time

- A. Where service is used for determining any benefit or rights under this contract or under any retirement system or for any other purpose, such service shall be computed from the last date of hire and shall include all allowances for time not worked or time credited as stipulated in this agreement.
- B. In the event of layoffs, no senior employee shall be on layoff while work is being performed by a junior employee for which the senior employee is qualified. It is the objective of the preceding sentence to implement a policy of "last in, first out" among incumbents holding the same or similar position, in accordance with the rules set forth in Section 80 of the Civil Service Law.
- C. In addition, no regular full time employees shall be laid off without two weeks prior notice. Seniority as of the date of layoff shall be granted upon recall in accordance with the rules set forth in section 81 of the Civil Service Law. Employees returned from layoff shall not lose seniority if recalled within two years. Except for Article

XXV (Grievance Procedure), none of the provisions of this agreement shall apply to employees on layoff.

ARTICLE IX – WORKING HOURS

Section 1. Shift Cycle and Hours

- A. The Village of Massena agrees to implement a twenty-eight (28) day work cycle wherein all police officers (exclusive of detective sergeants) shall work four-twelve hour shifts one week and three twelve hour shifts the next week.
- B. For purposes of this agreement, the twelve (12) hour “day shift” shall run from 7:00 AM to 7:00 PM and the twelve (12) hour “night shift” from 7:00PM to 7:00AM. Any change, except in an emergency, will be with the agreement of both parties. For the purpose of this section, an emergency is defined as a breach of peace, public disorder, riots, floods, earthquakes, or a grave threat to human life.
- C. The following on/off schedule is an example of how police officers assigned to such twelve- (12) hour shifts, shall hereinafter work.

SHIFTS: A=NIGHTS (7PM TO 7AM) AND B=DAYS (7AM TO 7PM)

	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28
A	B	B	O	O	O	B	B	O	O	A	A	A	O	O	A	A	O	O	O	A	A	O	O	B	B	B	O	O
B	A	A	O	O	O	A	A	O	O	B	B	B	O	O	B	B	O	O	O	B	B	O	O	A	A	A	O	O
C	O	O	B	B	B	O	O	B	B	O	O	O	B	B	O	O	A	A	A	O	O	A	A	O	O	O	A	A
D	O	O	A	A	A	O	O	A	A	O	O	O	A	A	O	O	B	B	B	O	O	B	B	O	O	O	B	B

(This table of scheduling serves only as an example.
The following is to be used for 12 hour shifts:)

SHIFT	A	B	C	D
SERGEANT	1	1	1	1
PATROLMAN	4	4	4	4

(THIS IS NOT INTENDED TO MODIFY THE LONG STANDING CUSTOMS, PROCEDURE AND PRACTICES NOW IN EFFECT AND BEING USED FOR THE FILLING OF SHIFT VACANCIES FOR THE PURPOSE OF OVERTIME.)

D. Two Patrolmen will be assigned to work an annual 7:00 P.M.to 7:00 AM, twenty-eight (28) day work cycle of four twelve hour shifts one week and three twelve hours shifts the next week. This shift will be bid annually by seniority for a one-year period. On or about November 1, of each calendar year, the Chief or his designee will give all officers the opportunity, by seniority, to select one of these assignments for the ensuing calendar year. In the event that no employee bids for the shift, the two patrolmen with the least seniority will be assigned to the position. In exigent circumstances, such as unanticipated statutory emergencies, the Chief may temporarily re-assign officers

Section 2. Staffing

- A. From the hours of 3:00 A.M. until 3:00 P.M., there will be a minimum of one Sergeant, two Patrolmen, and one Civilian Dispatcher working, for a total of (4) employees.
- B. From the hours of 3:00 P.M. until 3:00 A.M., there will be a minimum of one Sergeant, three Patrolmen, and one Civilian Dispatcher working for a total of (5) employees.
- C. An exception to the above will occur for Holiday Lieu Time in which case, it is intended that the above will not affect the current and past practice of staffing levels.

Section 3. Absences

- A. In the event that the number of employees working falls below these minimum standards, positions will be filled with overtime to bring the number of employees up to the minimum standard.
- B. For the purposes of this section, should a civilian dispatcher fail to report for a shift they are scheduled to work, and therefore cause the number of employees working to fall below the minimum standard, Police Officers will be called first to fill this vacancy. Should this vacancy not be able to be filled by a Police Officer, then other civilian dispatchers will be called to fill this vacancy.
- C. In the event a civilian dispatcher fails to report to work as stated in Paragraph B above, the assignment to that position during normal operations will be made by the Shift Sergeant.
- D. The Village agrees to provide the M.P.P.A. with a job description for Civilian Dispatchers that will detail their job duties and responsibilities.
- E. No officer shall be assigned to more than one tour of duty in such 24-hour period except in an emergency. An emergency situation shall be defined to include situations where the complement of men are below standards established by the Chief of Police, because of absenteeism or other situations which result in the number of employees to be below the normal complement.

Section 4. Compensation

- A. Officers shall be paid weekly.
- B. When, as a condition of the 12 hour rotation, a member is scheduled for forty-eight hours in a week, pay shall be as follows: 40 hours at the hourly rate; 4 hours at time and one-half the hourly rate; 4 hours at the hourly rate carried to the next week.
- C. When, as a condition of the 12 hour rotation, a member is scheduled for 36 hours in a week, pay shall be as follows: 36 hours at the hourly rate; 4 hours from the previous week at the hourly rate. (40 Hours total). The 4 hours that are carried over from the previous week will be considered as time worked for computing overtime.
- D. Detective Sergeants shall continue to work five eight-hour shifts.

Section 5. Overtime

- A. Overtime will be paid at time and one-half for approved hours worked over a normal workday and normal workweek.
- B. Any officer called to duty other than the regular tour of duty shall be paid at time and one-half their regular rate for not less than 2 hours.
- C. On all hearings, an officer when not on duty shall be paid at time and one-half for actual court time, but not less than 2 hours at time and one-half off shift.
- D. The Village agrees that reasonable judgement will be used to try and equalize voluntary overtime.
- E. Vacation time and Personal Leave will be considered as time worked.

Section 6. Swapping of Shifts

- A. All officers will be allowed to trade shifts for their own personal reason with the permission of the Chief of Police, said permission shall not be unreasonably withheld.
- B. Under this agreement, members of the M.P.P.A. will be allowed to trade shifts outside the pay period. (Monday-Sunday). Each employee shall be allowed the right to exchange a shift with another employee if the employee is able to secure another employee to work in their place provided:
 - 1. Such substitution does not impose any additional costs to the Village of Massena.
 - 2. The officers in charge of the reliefs in which the substitutions shall take place are notified not less than one day before becoming effective, except in the case of an emergency. It will be the responsibility of the officer requesting the relief to notify the shift supervisors.
 - 3. The Chief of Police must approve the exchange and said approval shall not be unreasonably withheld.
 - 4. Neither the department nor the Village of Massena is responsible for enforcing any agreements made between employees in regards to this policy.
- C. A Swap is defined as a scheduled relief taken off by an employee. A Payback is defined as a relief worked by an employee in exchange for a Swap.
- D. A Swap and a Payback may occur in either order. The Swap may be taken first and followed by a Payback, or the Payback may be worked first and followed by a Swap. Whether the Swap or Payback is worked first, both must be worked within the calendar year.
- E. Whether the Swap or Payback occurs first, the relief officer is to report for their Swap or Payback shift. In the event the officer does not report, the officer will have to use time off in place of that shift, and will complete a time off request form. Any time used in exchange for reporting to the Swap or Payback shift will be in accordance with departmental policy regarding time off and in accordance with the Massena Police Department's Attendance Expectation Policy.
- F. This policy may be used a maximum of 14 times in one calendar year (January-December) for out-of-pay-period swaps. A Swap and a Payback shall be considered as "one" occurrence under this policy.
- G. For the purpose of this agreement, no officer shall work more than (7) continuous days in any combination of scheduled shifts, Swaps or Paybacks.

Section 7. Reverting to 8 Hour Shifts

- A. Except where specifically modified by this agreement, all past practices, rights, privileges and benefits enjoyed by police officers under the previous eight- (8) hour schedule are to remain in effect under the twelve- (12) hour schedule.
- B. Should the department through future negotiations revert back to the eight (8) hour schedule, or any other schedule, all past practices, rights, privileges and benefits enjoyed by police officers under the previous eight (8) hour schedule (and hereinafter, the twelve (12) hour schedule) shall continue to remain in effect, unless otherwise negotiated at the time of said revision.

Section 8. Investigators

- A. The Chief of Police will assign the positions of Investigator. The Chief of Police, at his discretion may remove an Investigator at any time.
- B. The Schedule of the Investigators will be:

INV	M	T	W	TH	F	S	S
1	9-5	9-5	9-5	9-5	9-5	0	O
2	O	12-8	12-8	12-8	12-8	9-5	O
1	O	12-8	12-8	12-8	12-8	9-5	O
2	9-5	9-5	9-5	9-5	9-5	O	O

This schedule may be modified for emergency situations, or upon the agreement of the Chief of Police and the Investigators assigned.

- C. The Investigators will have Patrolman rank.
- D. Investigators will work in civilian clothing (at the discretion of the Chief of Police), and may have to work as uniform employees at the discretion of the Chief of Police, or his designee. Investigators will not be assigned to uniform functions to avoid the payment of overtime.
- E. Clothing allowance will be consistent with that of other non-uniformed personnel.
- F. Investigators may work additional uniformed employee details (i.e. Stop DWI) only when all other uniformed employees have declined such detail.
- G. Investigators will be recognized as twelve (12) hour employees for the purposes of sick leave accumulation. Investigators will be recognized as eight (8) hour employees for the purpose of other benefits in this contract.

ARTICLE X – EMPLOYEE RESPONSIBILITY

- A. It is the duty and responsibility of every employee to report for their scheduled shift unless the member has previously notified the officer in charge. It is the intention of the Village Board that the Village not tolerate chronic absenteeism.

ARTICLE XI - UNIFORMS AND UNIFORM MAINTENANCE

Section 1. Uniform Provision

- A. The Village will provide adequate uniforms. Each member of the force shall maintain their uniform, at their expense, in a clean and serviceable condition.
- B. Any damage that is not caused by carelessness or neglect will be repaired at the Village's expense.
- C. Arm patches will be supplied.
- D. Each employee will be paid a total of \$400.00 lump sum maintenance allowance for shoes, uniforms and dry cleaning at the beginning of the fiscal year.

ARTICLE XII – SICK LEAVE REGULATIONS

Section 1. GML 207c Disability

- A. Pursuant to the provisions of section 207-c of the General Municipal Law, any member of the police department, who through no fault and misconduct on their part, is disabled by injuries received in the discharge of their duties, or who, as a result of illness attributable to the performance of such duties, shall, when certified by a duly licensed physician or physicians as designated by the Board of Trustees of the Village, stating that said member is physically or mentally incapacitated for the performance of police duty, be paid by the Village by which they are employed, the full amount of their regular compensation or wages until their disability arising therefrom has ceased or until such time as such physician or physicians shall certify to the Board of Trustees of the Village that said member has recovered and is physically fit to do (part-time police) duty or that such member is permanently disabled and unfit to perform any police duty and shall recommend that the member be retired from the force as provided by law.
- B. All disability suffered by a member of the police department who, through no fault or misconduct on their part, is disabled by injuries received in the discharge of their duties or who, as result of illness attributable to the performance of such duties is disabled, shall be considered for all purposes as a continuing service under this agreement and similarly all allowed or allowable sick leave time shall be considered for all purposes as continuing service.
- C. When a member is injured in the performance of their duties, and is disabled from work pursuant to the General Municipal Law (GML) section 207-C, the member shall be paid "regular salary and wages", to the extent required by such section.

- D. Regular salary and wages shall include the amount of pay the officer would receive if the officer were working as scheduled. If the officer is assigned to the 12-hour schedule, the officer will receive compensation pay as shown in Article IX, Section 4.
- E. If the officer is assigned to an 8-hour schedule, then the officer shall receive 40 hours regular rate compensation pay per week.
- F. Employees disabled pursuant to GML 207-C WILL NOT receive any additional compensation pay when regular wages and salary are paid. For example, but not limited to, the officer shall not receive additional pay for court appearances, department meetings, or department training.
- G. Regular salary and wages shall include longevity payment to the officer.
- H. An employee who is disabled pursuant to GML 207-C will be considered continuing service for the following fringe benefits: sick time, personal days, longevity pay, vacation time, holiday compensation time (not to include time and one-half for working holiday) and uniform maintenance.
- I. Regular salary and wages shall not include other fringe benefits.

Section 2. Death Benefits

- A. Death benefits as per General Municipal Law Section 208(c) – the Village agrees to continue to provide the benefits set forth in said statute.

Section 3. Sick Leave Credits

- A. Any member of the police force in the Village who is disabled by injuries or illness not attributable to the performance of their duties and has been regularly and continuously employed for a period of six (6) months shall be allowed sick leave.
- B. Sick Leave shall be earned at the rate of twelve (12) hours for every month of work starting with the seventh (7) month of continuous employment. A “month of work” shall be defined as any calendar month during which a member of the department works at least ninety-six (96) hours (time off in lieu, reserve duty, personal days off, and bereavement leave are not considered at time worked). Sick leave within the article of this agreement shall be deemed to mean leave with pay.
- C. An employee shall earn one (1) bonus sick day (12 hours) each six (6) months – (June-December) (December-May) i.e. total of six (6) days over three (3) years. To earn the bonus sick day, employee shall not have used any sick time during the previous six (6) months.

Section 4. Sick Leave Debits

- A. In the event of absence with pay because of sick leave granted under this section of this article, the number of days of sick leave in any one calendar year shall be charged against sick leave credit. Absence because of injuries or illness attributable to the performance of the duties of the department shall not be charged against sick leave credit.
- B. Sick leave shall be taken in 4 hour increments (less than 4 hours at the discretion of the Police Chief or designee).

Employees may use up to 4 days for illness in the immediate family. Immediate family shall consist of parent, spouse, or child who resides in the employee's household and such days shall be deducted from accumulated sick credits. The Chief of Police may request certification from a doctor verifying such illness at anytime.

Section 5. Sick Leave Accumulation

- A. Unlimited accumulation of sick leave.
- B. Upon retirement, regardless of the age of retirement, the employee retiring shall be paid for all unused sick time at the rate of \$12.50 per hour, not to exceed eight hundred (800) hours. If an employee has accumulated two thousand (2,000) hours of unused sick time, said employee shall be paid for all unused sick time at the rate of \$12.50 per hour, not to exceed one thousand (1,000) hours. The total amount shall be paid to the employee eligible for retirement or their estate in one lump sum.

Section 6. Restrictions

- A. No member of the police department shall receive compensation while absent from duty because of sickness or disability except as herein provided with respect to sick leave and with the exception of the compensation during disability required to be allowed under section 208-c of the General Municipal Law.

Section 7. Proof of Sickness or Disability

- A. Any member of the police department covered by this agreement who is unable to report for duty because of illness or physical disability shall immediately notify their superior of that fact and shall state the nature of the illness or disability or in the event they are unable to do so, a responsible person may make the report.
- B. Employees must present certification from an attending physician attesting to such illness for 3 or more days of illness or disability. The Chief of Police may request such certification for a 2-day absence for illness or disability.

Section 8. Compensation Benefits

- A. Any workers compensation benefit which is due and payable to a member of the department covered by this agreement as a result of illness or disability incurred or attributable to the performance of their duties shall be deemed payable to the Village.
- B. In the event of third party action brought on behalf of such member of the department, any net recovery by settlement or verdict and judgement in a court of law as result of said action shall be deemed payable to the Village to the extent of compensation paid to the member and for medical and hospital expense.

Section 9. Extended Sick Leave

- A. Extended sick leave may be taken in excess of the amount then accumulated, but not in excess of the total amount that would be accumulated at the end of the calendar year. Such usage of anticipated sick leave will be dependent upon the employee's previous sick leave record and must be approved by the employee's department head and Village's designated representatives.
- B. Upon separation from employment in the police department, the employee shall be charged at the rate the employee was paid for sick leave taken in excess of the amount accumulated.

Section 10. Petitions for Extension

- A. When a police officer, because of sickness or disability not attributable to accident or illness which occurred in the performance of their duties as a member of the police department, is required to remain away from work beyond their sick leave allowance hereunder, the Chief of Police in his judgement or a police association designated representative may petition the Village Board that additional sick leave with pay be granted, due consideration being given to the police officer's prior service.
- B. Should the Chief of Police, after request by the police officer concerned, not make the petition to the Village Board within 5 days after the request by the officer concerned, then the Association shall have the right and privilege hereunder to petition the Village Board on behalf of the officer.

Section 11. Light Duty

- A. Light duty work may be assigned to an officer only under two circumstances: at the discretion of the department, pursuant to the terms of paragraph (1) below; or upon the request of an officer, pursuant to the terms of paragraph (2) below.

(1) **Light Duty at the Discretion of the Department:** In the event that an officer suffers an off duty injury that prevents the officer from performing the regular and essential functions of their job, then the Department shall have the discretion, but not the obligation, to create a light duty assignment that the officer is capable of working, and to order the officer to work the light duty assignment until the officer is capable of performing the regular and essential functions of their job.

(2) **Light Duty Assignment upon the Request of an Officer:** Notwithstanding the provisions of the previous paragraph, in the event that an officer suffers an off duty injury that prevents the officer from performing the regular and essential functions of their job, then the department shall consider making a light duty assignment available for the officer, provided:

- a. the officer request a light duty assignment;
- b. the number of officers assigned to "light duty" will be at the discretion of the Chief of Police;
- c. the officer is capable of working light duty assignments, and presents the Chief of Police with a statement from the officer's physician certifying same;
- d. The officer presents the Chief of Police with a written statement from the officer's physician certifying that the officer will be capable of returning to full, active duty (i.e., performing the regular and essential functions of their job) within 30 days of beginning the light duty assignment. The light duty assignment may be extended at the discretion of the Chief of Police if the officer makes a request for an extension;

- B. The creation of a light duty position and the assignment of an officer to a light duty position are the prerogative of the Village of Massena. The final decision of assigning an officer to a light duty position rests solely with the Chief of Police. Nothing contained in this policy is intended to modify the rights of the Village of Massena.

ARTICLE XIII – ANNUAL PHYSICALS

- A. The Village shall have the right to require employees to submit to an annual physical examination by a Physician or Physician Assistant at the Village's expense. Police officers shall not be required to sign a waiver of their past medical history in conjunction with said examinations detailed in the policies and procedures negotiated between the parties and attached hereto in (APPENDIX 3).

ARTICLE XIV – RETIREMENT

- A. The Village agrees to continue to provide the following state sponsored programs under the New York State Retirement and Social Security Law: the twenty (20) year plan known as 384-D; also 384-D, G, H and 375-I plan.

ARTICLE XV – HEALTH INSURANCE

- A. The employees covered under this Agreement will be provided a major medical, dental, and vision care health plan. The major medical and dental plan shall be that contained in the separate document entitled "Village of Massena Plan Document" dated May 1, 2001.
- B. The Vision Care program shall be administered by the CSEA Employee Benefit Fund and shall be the program commonly referred to as the "CSEA Silver 12". The Village shall contribute to the CSEA Employee Benefit Fund an amount not to exceed \$13.92 per month for each active employee. Retirees may participate in the vision care program provided, cost will be borne solely by the retiree.
- C. The employee's eligible dependents, (including dependents up to and including age 23 attending an accredited school full time) as defined in the "Village of Massena Plan Document", will be covered by the Health Plan. If subsequent governmental legislation should provide any of the benefits as contained in the "Village of Massena Plan Document", the parties will meet and agree on a modification of this plan to eliminate duplication of benefits.
- D. Upon retirement, and regardless of age of the retiree, the Village shall at Village cost, continue to provide the then current health, vision and catastrophic plans to said retiree and their eligible dependents on the same basis as the Village provides said coverage to active employees, until the retiree or spouse become eligible for Medicare, at which time the Village shall, at no cost, provide the retiree and spouse with the AARP plan. Coverage will cease at retiree's age 65 or upon Medicare coverage. At age 65, the Village will pay the premium for AARP Medicare Supplement Plan E insurance for retiree and spouse. Retiree is required to be a member of the AARP.

E. Any employee may waive coverage under the Village's health insurance plan. The Village will pay an annual sum of \$1,200.00 to each employee (\$600.00 per spouse when both are employees of the Village of Massena) who elects this option. Employees must notify the Village in writing 30 days prior to the start of the Plan Year. Employees and their dependents will not be eligible under any circumstances for coverage or reimbursement for any medical costs during the Plan Year. If an employee elects to re-join the Village's health insurance plan, pre-existing conditions will not be covered.

F. The Bargaining Unit and the Village of Massena agree that maintaining a strong health care provider network is in their mutual interest. Both will work to maintain and strengthen the network. In the event that, due to circumstances beyond their control, either party takes the position consistent with agreed upon herein that the network is no longer able to provide services, the parties are to immediately commence to negotiate for a new agreement. During this time all health coverage shall be considered "in-network". Should a new agreement not be reached within 90 days the parties agree that the Village shall have the obligation, in the interim, to implement substitute health coverage consistent with the coverage set forth in Article 15 of the current labor agreement. It is specifically understood that all other remaining provisions shall remain in full force and agreement.

G. Enrollees agree to participate in a voluntary managed health care program.

ARTICLE XVI – LIFE INSURANCE

A. The Village will provide life insurance to active and retired employees as follows:

Employee - \$15,000.00 with accidental death
Spouse - \$ 6,000.00
Dependent: \$ 1,000.00 (Live birth to six months)
 \$ 5,000.00 (6 months to 23 years)

ARICLE XVII – BEREAVEMENT

A. Police officers shall be entitled to bereavement leaves as follows:

1. If working 8-hour shifts:
 - 4 days for parent, spouse and child (step child/parent);
 - 3 days for brother, sister, grandparents, mother/father in law
2. If working 12 hour shifts:
 - 36 hours for parent, spouse and child (step child/parent);
 - 36 hours for brother, sister, grandparents, mother/father in law

B. Upon request, the leave will consist of up to 3-4 days on which the employee otherwise would have worked.

C. Such days must fall within one consecutive 7-day period encompassing the death, the funeral, or the memorial service in lieu of funeral.

D. An employee will not receive funeral pay when it duplicates pay received for time not worked for any other reason.

E. One bereavement day of the total allocated may be taken for a delayed funeral.

ARTICLE XVIII – VACATION SCHEDULE

Section 1. Accrual

A. Vacation shall be earned as follows:

	<u>8 HOUR SHIFT</u>	<u>12 HOUR SHIFT</u>
After 1 year of service	2 weeks	84 hours
After 4 years of service	3 weeks	126 hours
After 8 years of service	4 weeks	172 hours
After 12 years of service	5 weeks	212 hours

Section 2. Use

- A. All accrued vacation must be taken between January 1 and December 31 of each year.
- B. It is agreed that at least 2 officers shall be allowed to schedule regular vacations during the same workweek at the rate of 1 per 12-hour shift.
- C. In the event an officer's vacation is cancelled due to an emergency situation, the officer will have the choice by seniority of when to schedule their make-up vacation, which will not result in a maximum of more than 1 person off in a 12 hour shift.
- D. Mandatory military leave shall not interfere with regular vacation schedules.
- E. Refer to holiday agreement in the event a legal holiday falls within an employee's vacation period.
- F. An employee can carry-over earned vacation time from one year to the next. However, this accumulated time cannot exceed 3 weeks or 120 hours at any one time. Vacation to be scheduled after regular vacation and shall not disrupt or cause a shortage of personnel.
- G. Officers may take the 5th week of earned vacation in greater than, but not less than four- (4) hour blocks.

Section 3. Retirement

- A. Accumulated earned vacation time shall be paid to an employee upon their retirement or termination for any reason.
- B. In case of death, surviving spouse or estate will receive a lump sum payment.

ARTICLE XIX – HOLIDAYS

Section 1. Dates

A. The following days shall be recognized as holidays for the purpose of this agreement:

NEW YEAR'S DAY
LINCOLN'S BIRTHDAY
WASHINGTON'S BIRTHDAY
GOOD FRIDAY
MEMORIAL DAY
INDEPENDENCE DAY

LABOR DAY
COLUMBUS DAY
ELECTION DAY
VETERANS' DAY
THANKSGIVING DAY
CHRISTMAS DAY

- C. When any of these holidays fall on Sunday, the following day (Monday) will be recognized as the holiday. Officers who work a holiday shall receive time and one-half plus compensation time depending on normal hourly work schedule.
- D. Officers who are scheduled off on a holiday shall receive 12 or 8 hours compensation time equivalent to normal work schedule or pay in lieu.
- E. An employee shall have the option between June 1 and May 31 to take compensation time off for earned holiday time. Such time will be taken in a manner that does not injure departmental operations. (Chief's Discretion)

ARTICLE XX – COMPENSATION TIME

Section 1. In Lieu of Training Overtime

- A. The Chief of Police may schedule training for each member of the bargaining unit for up to a maximum of 12 hours in a contractual year. Such training time will be paid to the member in compensatory time off. This time may only be taken in compensatory time off.
- B. Training scheduled above and beyond the 12 hours, may be taken as compensatory time off or be paid as per the collective bargaining unit agreement. This will be the officer's option.
- C. No member may be allowed to carry more than 120 hours at any time. A maximum of 96 hours of compensatory time off may be carried from contract year to contract year. Accumulated compensatory time off in excess of 96 hours, will be paid in cash to the member, before the end of the contractual year.
- D. Compensatory time will be treated as holiday lieu time for the purposes of taking time off and the purposes of staffing levels. Compensatory time off will be considered as time worked for the purposes of computing overtime.
- E. Compensatory Training Time (that which was scheduled by the Chief / 12 hours) that is not taken off prior to the end of the contractual year, will be converted to sick time and the hours added to the employees accumulated sick time bank.

Section 2. In Lieu of Overtime Worked

- A. Members will be permitted to earn compensatory time off for overtime worked in lieu of overtime pay.
- B. The same rules that apply for compensatory time off in lieu of training overtime will pertain to compensatory time off in lieu of overtime.

ARTICLE XXI - LONGEVITY

- A. Longevity shall be paid over 52 equal installments (added to weekly pay check). Longevity will continue to be included in base pay rate for the purpose of calculating salary increases.
- B. Longevity shall be paid as follows:

<u>5 YEARS</u>	<u>10 YEARS</u>	<u>15 YEARS</u>
\$650.00	\$900.00	\$1,150.00

ARTICLE XXII – PERSONAL LEAVE DAYS

- A. After completing the first year of employment, each employee in the bargaining unit shall be entitled to 24 hours of personal leave per year.
- B. Unused personal leave days will be added to the employee's sick leave bank.

ARTICLE XXIII – WAGES

- A. Effective on and retroactive to June 1, 2002, wages shall be increased as shown in the Wage Schedule below.
- B. Yearly wage increases, as set forth in the police contract will be based on the step system. All police officers hired after June 1, 1991 will have their step increases paid on their anniversary date of hiring. All officers hired before June 1, 1991 will have their step increase paid on June 1st of their respective year. All officers hired before June 1, 1991 will have their step increase paid as per agreement date January 4, 1989.
- C. Promotions will be paid on the anniversary date of the promotion.
- D. Retroactive to June 1, 1998 starting wage for patrolman will be \$20,000.00. Starting wage shall be adjusted annually as indicated in the wage schedule below.
- E. When a senior officer is required to supervise a shift (Acting Sergeant) per departmental policy set forth by the Chief of Police, their hourly rate will increase by \$.35 per hour worked as an Acting Sergeant.
- F. At the discretion of the Chief of Police, up to two patrolmen may be assigned duties of Patrolman, Specialist to work DWI patrol or other special assignments supplementing their regular duties. Officers assigned to this position shall not work rotating shifts but will instead work the hours of 7:00 P.M. to 7:00 A.M. These positions will be filled by order of seniority; if the senior officers deny these positions, the junior officers shall be assigned. Compensation for this position shall be \$1.00/hour above their normal patrolman rate including hours when temporarily assigned to work other shifts.

Wage Table

	<u>3%</u>	<u>3%</u>	<u>3%</u>	<u>Annualized¹</u>
	05/31/02 To 06/01/03	05/31/03 To 06/01/04	05/31/04 To 06/01/05	05/31/04 To 06/01/05
<u>Title</u>				
<u>Patrolman</u>				
Start	\$11.25	\$11.59	\$11.93	\$24,819.76
Step 2	\$15.02	\$15.47	\$15.93	\$33,138.48
Step 3	\$16.87	\$17.38	\$17.90	\$37,229.65
Step 4	\$18.72	\$19.28	\$19.85	\$41,298.09
Step 5	\$20.56	\$21.18	\$21.81	\$45,366.53
<u>Sergeant</u>				
Start	\$21.25	\$21.89	\$22.54	\$46,889.35
Step 2	\$22.05	\$22.71	\$23.40	\$48,662.19
Step 3	\$22.86	\$23.54	\$24.25	\$50,435.03
<u>Detective</u>				
<u>Sergeant</u>				
Start	\$23.00	\$23.69	\$24.40	\$50,753.24
Step 2	\$23.79	\$24.51	\$25.24	\$52,503.35
Step 3	\$24.59	\$25.32	\$26.08	\$54,253.46

1. Annualized column provided for reference only. Hourly Wage indicates base wage. Longevity payments will be added where applicable.

ARTICLE XXIV – SECONDARY EMPLOYMENT

Section 1. Regulations

A. Officers may engage in outside employment when:

1. Such employment does not interfere with the officer's employment with the department.
2. Such employment is not more than 20 hours per week or more than 16 hours in 1 day (including duty time).
3. Such employment would not violate any law, any other departmental policy, general order or other regulation.

B. All requests for outside employment must be directed to the Chief of Police. Such request shall be in writing, in memorandum form, and shall include the following:

1. Date of request
2. Location of employment or event
3. Telephone number of employer and business
4. Full description of duty requirements
5. Clothing to be worn
6. Name of person in charge
7. Dates and time of employment
8. Officer's signature

C. The Chief will review the request in a timely manner and respond to such request in a reasonable time frame, however any response will be given by no later than 5 working days after receipt of such request, unless circumstances dictate otherwise.

D. No employee will participate or engage in outside employment, unless permission to do so has been approved by the Chief of Police.

E. The employee will also submit a letter of understanding signed by both the employee and the "secondary" employer which states the employee will be allowed to leave their secondary job should there be an emergency and their presence be required for the Village of Massena Police Department.

F. A request for outside employment will be denied if the employment:

1. Renders the officer unavailable during an emergency; *or*
2. Physically or mentally exhaust the officer to the point that their performance may be affected; *or*
3. Requires special consideration be given to scheduling the officer's regular duty hours; *or*
4. Brings the officer or the department into disrepute or impairs the operation or efficiency of the officer or department; *or*
5. Creates a conflict of interest between the officer's professional status as an important public servant; *or*
6. May tarnish the officer's image or prejudice their impartiality; *or*

7. Involves law enforcement for another public agency. Only for the duration of this Agreement beginning 6/1/02, denial for law enforcement work may be waived if approved Certificates of Insurance naming the Village of Massena as additionally insured are provided and a Hold-Harmless Release of Liability is provided. This waiver does not supersede any other terms or conditions of this Agreement.

ARTICLE XXV – GRIEVANCE PROCEDURE

Should an employee feel that they have been treated unjustly, they and/or their representative may present their grievance to the proper representative of the Village who will give it prompt and thorough consideration.

Section 1. Step 1

- A. All employees are encouraged to discuss alleged grievances with the department head before filing a written grievance.
- B. An employee who alleges to have a grievance shall present the grievance to the department head or designated representative, in writing, within 10 days after the grievance occurs.
- C. Any grievance not filed within 10 calendar days of the date of occurrence shall be deemed abandoned.
- D. The department head or designated representative shall give an answer to said grievance within 10 days.
- E. If no answer is given or if the grievance is not satisfactorily settled, the grievance may proceed to STEP 2.

Section 2. Step 2

- A. The grievance may then be appealed to the Village Board. Such request shall be in writing and shall contain a statement of the specific nature of the grievance and the facts relating thereto.
- B. The Village Board or its representative shall hold a hearing within 10 days after receiving the request and supporting facts from the employee.
- C. The Village Board shall render its written decision within 10 days after the close of the hearing.
- D. The limits stipulated above may be extended by mutual agreement of the parties concerned.

Section 3. Step 3

- A. Failing satisfactory adjustment, the grievance may proceed to arbitration by giving written notice to the Village Board within 10 days following the Board's written decision.

Section 4. Arbitration

- A. All matters of interpretation which may become the subject of a stated question under the grievance procedure as provided in this agreement and any and all disputes which may arise with reference to the interpretation of the language of this contract which cannot be resolved by discussion between the members of the police department or their representative and the Village Board of Trustees, shall on the motion of either party to such disagreement become a matter that shall be submitted for arbitration pursuant to this article of this contract.
- B. The subject matter of this disagreement and the nature of the disagreement shall be stated in writing to as full an extent as is possible to do. If it is impossible for the parties to agree upon a statement of the disagreement, then each party shall prepare and submit a written statement of position with respect to the disagreement and both statements shall be considered the subject matter for arbitration.
- C. A committee shall be selected by the Massena Police Protective Association to represent the MPPA in the choice of an arbitrator in conjunction with a representative of the Village Board of Trustees who shall be selected by it for that purpose. Their selection shall be of a wholly disinterested arbitrator from a list of persons to be submitted by the Public Employment Relations Board of the State of New York.
- D. It shall be the duty of the arbitrator to hear disputes on subjects within its jurisdiction as certified by the statements of disagreement referred to herein above by the Association and/or the Village Board of Trustees or both, such hearings, to be held in Massena, New York. The arbitrator shall have the power to swear and hear the testimony from witnesses and to receive statements and interpretations from either party to the dispute. Testimony may be taken on any subject relative to the issue to be decided. Following the hearing, the arbitrator shall make findings of fact and conclusions of law and recommendations with respect to the solution of the disagreement. The decision of the arbitrator shall be final and binding upon both the parties.
- E. The arbitrator shall provide the provisions of the agreement and the laws of the State of New York as the basic principles and fundamental law governing a relationship of the parties. The arbitrator shall have no power to alter, enlarge, diminish or restrict the meaning of this agreement as it exists from time to time or any provisions therein, but shall be deemed to have ample power to consider such facts and interpretations of law as are relevant to and may assist in making findings of fact consistent with the agreement, the law and the situations of the parties. All decisions of the arbitrator shall be reduced to writing.
- F. The compensation and expenses of the parties to the dispute to be arbitrated and of the salary and expenses of the arbitrator shall be borne in equal shares by the parties to the disagreement.
- G. The arbitrator shall have the power to make such rules and regulations for the conduct of the hearings as do not conflict with the agreement or the law of the State of New York.

ARTICLE XXVI – AGENCY SHOP

- A. Effective with the signing of this agreement and in accordance with Chapters 677-678 of the Laws of 1997 of the State of New York, the Village will notify all employees covered by this agreement, who are on the payroll as of June 1, 1979 and who are not presently members of the PBA, that they have the right to join the PBA, or if they do not choose to join the PBA, they shall have deducted from their salary an agency shop fee which will be equivalent to the amount of dues payable by a member of the PBA.
- B. Effective as of June 1, 1979 such agency shop fee shall be deducted from the salary of employees who were on the payroll as of June 1, 1979 who do not choose to become members and from the salary of employees whose membership has not yet become effective. Every employee appointed after June 1, 1979 who does not join the PBA at the time of appointment or who does so join, or whose membership does not become effective, shall have an agency shop fee deduction. If the employee joins the PBA, such agency deduction shall be discontinued on the same date the Village gives effective to the dues check-off authorization.
- C. An employee who terminates PBA membership shall have deducted from their salary an agency shop fee effective on the same date on which the Village gives effect to revocation of authorization for dues deduction.
- D. The agency shop fee for each employee covered by this agreement shall be deducted from the employee's regular pay check in an amount equal to the periodic dues levied by the PBA for employees as currently checked-off by the Village. The PBA shall certify to the Village the appropriate amount or rate of the agency shop deduction.
- E. The PBA shall have exclusive right to the use and transmittal of the agency shop fee for employees within the affected bargaining unit. The Village shall transmit such agency shop fees as collected in the same manner in which union dues are transmitted. Any notification by the PBA to the Village of any change in the PBA dues shall be considered as a request for change in agency shop fee.
- F. Upon receipt by the Village of any notice of a change in the amount of the agency shop fee deduction as hereinafter provided, employees having such deduction shall be notified in writing by the Village of the date on which such new deduction will begin. A copy of this notice shall be sent to the PBA.
- G. The PBA shall refund to the employees any agency shop fees wrongfully deducted and transmitted to the PBA. The PBA affirms that it has established and is maintaining a procedure which provides for the refund to any employee demanding the same of any part of any agency shop fee which represents the employee's pro-rata share of expenditures by the PBA in aid of activities or causes of political or ideological nature only incidentally related to terms and conditions of employment.

ARTICLE XXVII – TOTALITY OF AGREEMENT

This agreement incorporates the entire understanding of the parties on all issues and is not open to further negotiation, except as provided in period of agreement.

ARTICLE XXVIII – PERIOD OF AGREEMENT

This agreement shall be in effect from June 1, 2002 until midnight May 31, 2005.



Edward Clary
President
Massena Police Protective Association

01/04/03
Date



Kenneth G. MacDonnell
Mayor
Village of Massena

4 January 2003
Date

APPENDIX 1

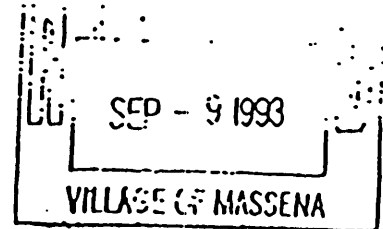
LETTER OF INTENT **STAFFING OF SHIFTS**

DATE: 09/09/93

TO: Village of Massena, New York

FROM: Massena Police Protective Association

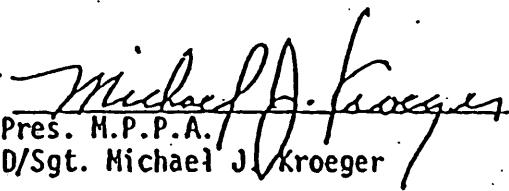
SUBJECT: Letter of Intent regarding staffing of shifts.



The M.P.P.A. will continue in it's voluntary state of cooperation with the Village of Massena, New York, in the working of the shifts short for the first (8) hours of the day shift (7am - 3pm), and the last four (4) hours of the night shift (3am-7am) - at the discretion of the Sgt. or officer in charge of the shift.

This letter of intent will only become valid if either of the following are put in the contract.

- 1) Under Working Hours - Sec. J - First sentence to read: The village agrees FOR THE DURATION OF THIS AGREEMENT, to maintain the present staffing level of four (4) patrolmen/officers, and one (1) sergeant, per shift.
- 2) The table for the 8hr schedule, as it is in the old contract under section "A" Working Hours.


Pres. M.P.P.A.

D/Sgt. Michael J. Kroeger

APPENDIX 2

DRUG TESTING POLICY

Village of Massena

Massena Police Department

Drug Testing Policy

1998

Introduction

Use of drugs is a nation wide problem. Persons of every age, race, sex, and ethnic group are affected. The use of drugs poses risk to the health and safety of the abuser as well as to others. The Massena Police Department believes that a working environment free of drug use is healthier, safer, more productive, and a condition desired by most employees and their families.

The Massena Police Department recognizes the need to confront the problems and risks associated with drug use in the workplace. Education serves an important role in the prevention of drug use. There is also a need to identify work performance problems related to drug use so that an employee may have the opportunity to seek treatment and be retained for continued employment based on satisfactory job performance.

This policy establishes clear standards concerning drugs. It also establishes a testing procedure to ensure that those standards are met.

A. DEFINITIONS

1. Drug: Any substance (other than alcohol) that is a controlled substance. To include, Amphetamine, barbiturates, cocaine, methadone, opiates, propoxyphene, methaqualone, benzodiazepines, phencyclidine and tetrahydro cannabinoids.
2. Drug testing: Analysis of a body component sample, including blood and urine, for the purpose of measuring the presence or absence of drugs, or their metabolites in the sample tested.
3. Employee: Any person listed in Section C, "Persons Subject to Testing."
4. Employer: The Village of Massena acting through a department head or any designee of the department head.
5. Impairment due to drug use: A positive test result is regarded as impairment under this policy.

6. Initial screening test: A drug test which uses a method of analysis and being capable of providing data as to general classes of drugs, or their metabolites.
7. Medical Review Officer (MRO): A licensed physician responsible for receiving laboratory results generated by the employer's drug testing program and who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's positive test result together with employee's medical history and any other relevant biomedical information.
8. Positive test result: A finding of the presence of drugs, or their metabolites in the sample tested in levels at or above the threshold detection levels set. The presence of drugs, or their metabolites at or above the following levels, as may be amended, shall be considered to be a positive test result:

Amphetamines	500	nanograms per milliliter
Cocaine Metabolite	150	nanograms per milliliter
Opiates		
Codeine, Morphine	300	nanograms per milliliter
6 monoacetyl Morphine	3	
PCP (Phencyclidine)	25	nanograms per milliliter
THC Metabolite(Delta-9-tetrahydrocannabinol-9-carboxylic acid)	15	nanograms per milliliter

9. Safety sensitive function(s): Means any on-duty time, includes all time from time employee begins work to time he/she is relieved from work and all responsibility for performing work.
10. Valid medical reason: When meeting one of the following conditions:
- Based on a written prescription or an oral prescription reduced to writing which names the employee as the person for whose use it is intended; or
 - The drug was prescribed, administered, or dispensed in the course of professional practice by or under the direction and supervision of a physician; and
 - The drug was used in accordance with the terms of the prescription and the physician has advised the employee that the substance does not adversely affect the employee's ability to perform a safety sensitive function. Use of any over-the-counter medication, in accordance with the terms of the product's directions for use, shall also constitute a valid medical reason.

Employees have an ongoing obligation to notify their immediate supervisors when taking prescription drugs which may affect their ability to

perform a safety sensitive function. Supervisor will immediately notify the Chief of Police.

11. Confirmatory Test: A test that may be requested by an employee that is conducted by the original testing laboratory, which retest and analysis the original body component sample for the purpose of measuring the presence of, or absence of drugs, or their metabolites in the sample.

B. DEPARTMENTAL WORK RULES

An employee, covered by this policy, may be subject to discipline for violation of the following work rules:

1. Except pursuant to a valid medical reason, as defined in Section A.14., no employee shall be impaired due to drug use, or under the influence of any drug while the employee is working, or on the employer's premises.
2. No employee shall use, possess, manufacture, sell, or transfer drugs or drug paraphernalia while the employee is working, or on the employer's premises, or operating the employer's vehicle, equipment, except pursuant to a valid medical reason, or official duties.
3. An employee shall notify his/her immediate supervisor when taking prescription or non-prescription medications that may effect their ability to perform a safety sensitive function. In the event there is a question regarding the effects of the type and/or prescribed dosage of said medication, clearance from a qualified physician may be required. Supervisor will notify Chief of Police.
4. No employee, while on duty, shall engage, attempt to engage, or conspire to engage in conduct which would violate any law or ordinance concerning drugs
5. All employees must notify the Chief of Police of any drug arrest or conviction, or any traffic alcohol related driving offense within 12 hours.

C. PERSONS SUBJECT TO TESTING

All M.P.P.A. union employees are subject to testing.

The employer will request an employee to undergo drug testing only under the circumstances described in this policy in Section D. However, no employee will be tested for drugs under this policy without the employee's consent, with the following provisions:

1. Right to refuse: Employees have the right to refuse to undergo drug testing. If an employee refuses to undergo drug testing requested

by the employer, no such test shall be given. A refusal to test will be considered a positive test and the employee will be removed from duty.

2. Consequences of refusal: employee refusal to undergo drug testing requested by the employer shall lead to administrative and/or disciplinary action.

D. CIRCUMSTANCES FOR DRUG TESTING

1. Pre-employment: All individuals as listed in Section C. whom the employer intends to hire, on a permanent or temporary basis must be tested.
2. Random: The employer must conduct unannounced testing based on a random selection of employees. A maximum of 25% of employees may be tested on an annual basis.
3. Follow-up: Following a determination by a substance abuse professional that an employee is in need of assistance in resolving problems with drug abuse and employee shall be subject to unannounced follow-up controlled substance testing as directed by the substance abuse professional. Follow-up testing shall not exceed 24 months from the date of employee's return to duty.

An employee shall be compensated, as per the collective bargaining agreement, for all time spent providing a breath sample or urine specimen, including travel time to and from collection site, in order to comply with random, or follow-up testing.

E. PROCEDURE FOR TESTING

1. Notification form: Before requesting an employee to undergo drug the employer shall provide the employee with the "Employee Consent To Drug Testing" form, Appendix C, on which the employee will:
 - a. acknowledge that the employee has seen a copy of the employer's drug testing policy;
 - b. indicate any over-the-counter or prescription medications that the employee is currently taking or has recently (within the last month) taken and any other information relevant to the reliability of, or explanation for, a positive-test result; and
 - c. indicate consent to undergo the drug testing.
2. Medical facility consent form: The employee must also indicate consent to undergo the drug testing on any consent forms necessary to effectuate purposes of this agreement.

3. Test sample (drug): The test sample shall be obtained in a private setting, and the procedures for taking the sample shall ensure privacy to employees to the extent practicable, consistent with the prevention of tampering with the sample, and shall conform with applicable rules. All test samples shall be obtained by or under the direct supervision of a health care professional.
4. Identification of samples: Each sample shall be sealed into a suitable container free of any contamination that could affect test results, immediately labeled with a specimen identification number, initialed by the employee, and dated by the person witnessing the sample.
5. Chain of custody: The employer shall maintain a written record of the chain of custody of the sample, and ensure proper handling thereof.
6. Laboratory: All testing shall use the services of a testing laboratory certified by the Substance Abuse & Mental Health Service Administration (SAMHSA), formerly NIDA, of the Department of Health and Human Services (DHHS). However, no test shall be conducted by a laboratory owned or operated by the Village of Massena.
7. Methods of analysis: The testing laboratory shall use methods of analysis and procedures to ensure reliable drug testing results including standards for initial screening tests and confirmatory tests.
8. Retention and storage: All samples from an initial screening test, that produced a positive-test result shall be retained and properly stored for at least six (6) months.
9. MRO's employee contact: On a confirmed positive drug test MRO shall make a reasonable attempt to contact employee to confirm circumstances and verify claims of prescribed medication. If MRO is unable to contact employee the MRO shall contact the employer representative who will direct the employee to contact the MRO.
10. MRO report: The MRO shall prepare a written report indicating the drugs or their metabolites tested for, the types of tests conducted, and whether the test produced negative or positive test results. The MRO shall disclose the results to the employer within three (3) working days after obtaining the final test result.
11. The employer shall, within three (3) working days after receipt of test result report from MRO, notify the employee of the results of random tests for controlled substances. The employer shall also inform the employee which controlled substances were verified positive.

E. RIGHTS OF EMPLOYEES

1. The right to request and receive from the employer a copy of the test

result report.

2. Within seventy-two (72) hours after a notice from the MRO of a positive drug test result, the right to request, in writing to the MRO, a confirmatory retest of the original sample at the employee's expense at the original testing laboratory or another DHHS-certified testing laboratory. If the result of a requested confirmatory test is negative, then the employer shall pay for such retest.

Within seventy two (72) hours after a notice from the MRO of a positive drug test result, the right to request, in writing to the MRO, a separate drug test, with a separate (new) sample at the employee's expense at the original testing laboratory or another DHHS-certified testing laboratory. If the results of a requested confirmatory test is negative, then the employer shall pay for such retest.

3. If employee has not contacted the MRO within the 72 hours, as specified in G.2., the employee may present to the MRO information documenting that a serious illness, injury, or other circumstances unavoidably prevented employee from timely contacting the MRO. If the MRO concludes there is a legitimate explanation for failure to contact the MRO within 72 hours, the MRO may direct the retest in as detailed in G.2.
4. The right not to be discharged, disciplined, discriminated, or requested or required to undergo rehabilitation on the basis of a positive test result from an initial screening test that has not been verified by a confirmatory test.
5. The right of an employee who has been suspended without pay to be reinstated with back pay if the outcome of the confirmatory test or requested confirmatory retest is negative.
6. The right not to be discharged, disciplined, discriminated, or required to be rehabilitated on the basis of medical history information revealed to the employer concerning the reliability of, or explanation for, a positive test result unless the employee was under an affirmative duty to provide the information before, upon, or after hire.
7. The right of an employee who has made a timely request for a confirmatory retest to suffer no adverse personnel action if the confirmatory retest does not confirm the result of the original confirmatory test, using drug threshold detection levels as established for a confirmatory retest.

G. ACTION AFTER TEST

The employer will not discharge, discipline, discriminate, or request or require rehabilitation of an employee solely on the basis of a positive test result from an initial screening test that has not been verified by a confirmatory test and in any confirmatory retest, the employer will do the following unless the employee has

furnished a valid medical reason for the positive test result:

1. For a positive confirmatory test, the employee will be:

- a. removed from duty; and
- b. referred for an evaluation by a substance abuse professional. If that evaluation determines that the employee has a chemical dependency or abuse problem, the employer will give the employee an opportunity to participate in, at the employee's own expense or pursuant to coverage under an employee benefit plan, either a drug or alcohol counseling or rehabilitation program, whichever is more appropriate as determined by the substance abuse professional. The employer will monitor participation and compliance with counseling or a rehabilitation program.

If the employee:

- i. refuses to participate in the counseling or rehabilitation program; or
- ii. fails to successfully complete the program, as evidenced by withdrawal from the program before its completion; or
- iii. is unable to perform his duty because of a positive test result on any subsequent return-to-duty or follow-up testing after completion of the program.
- iv. presents a direct threat to property or the safety of others, or is otherwise considered unable to perform in good faith; then

the employer may discipline, up to and including discharging the employee from employment; and

c. Employee shall not be allowed to return to Duty:

- i. Employee has been evaluated by a substance abuse professional; and
- ii. Completed any recommended treatment; and
- iii. Subject to required follow-up testing; and

d. Employee may use vacation, sick time, time off without pay, or holiday lieu day(s), for the time period between the determination of a positive test and evaluation by the substance abuse professional. Disciplinary suspension time (time without pay), Section G, shall be served prior to using such time; and

- e. For a first positive drug test conducted under this policy, the employee shall receive a three (3) scheduled shift suspension plus suspension of that shift, or remainder thereof. For a second positive test the employee may be immediately discharged from employment.
3. Other misconduct: Nothing in this policy limits the right of the employer to discipline or discharge an employee on grounds other than a positive-test result in a confirmatory test.

H. DATA PRIVACY

1. The purpose of collecting a body component sample of urine is to test that sample for the presence of drugs. A sample provided for drug testing will not be tested for any other purpose. The name, initials, and social security number of the person providing the sample are requested so that the sample can be identified accurately but confidentially. Information about medications and other information relevant to the reliability of, or explanation for, a positive test result is requested to ensure that the test is reliable and to determine whether there is a valid medical reason for any drug in the sample.
2. All data collected, including that in the notification form and the test report, is intended for use in determining the suitability of the employee for employment. The employee may refuse to supply the requested data; however, refusal to supply the requested data may affect the employee's employment status. The employer will not disclose the test result reports and other information acquired in the drug testing process to another employer or to a third party, individual, governmental agency, or private organization without the written consent of the employee tested, unless required by court order.

I. APPEALS PROCEDURES

1. All disputes related to the policies, procedures, standards, test and/or results of such test and/or disputes related thereto, shall be resolved through the grievance procedures in the collective bargaining agreement.

Kenneth G. MacDonnell 6-16-99
Kenneth G. MacDonnell
Mayor, Village of Massena

Christopher J. DiTullio 6/16/99
Christopher J. DiTullio
President, Massena Police Protective Assoc.

KSM 1-4-03

01-04-03

**Village of Massena
Police Department**

**Program Personnel
and Services**

Program Manager

Timmy J. Currier, Chief of Police
Town Hall Building - 60 Main St.
Massena, NY 13662
315-769-3577

Medical Review Officer (MRO)

Dr. Phillip Bridgeman or Dr. S. Scott Smith
Massena Memorial Hospital
1 Hospital Drive
Massena, NY 13662
315-764-1711

Substance Abuse Professional (SAP)

St. Lawrence County Alcohol and Substance Abuse Services
PO Box 229, SUNY Potsdam
Potsdam, NY 13676
315-265-6193

Collection Site - Drug and Alcohol Testing

Massena Memorial Hospital
Laboratory Services
1 Hospital Drive
Massena, NY 13662
315-764-1711

Substance Abuse & Mental Health Service Administration Approved Laboratory

SmithKline Beecham Clinical Laboratory
NIDA Testing
400 Egypt Road
Norristown, PA 19403
800-523-5447

Employee Assistance Program

Reachout of St. Lawrence County, Inc.
PO Box 5051
Potsdam, NY 13676
315-265-2422

**Village of Massena
Police Department**

**Supervisor Notification List
Following a Positive Test**

After the Medical Review Officer confirms a positive test, Massena Memorial Hospital shall notify the Employer. Both work phone(s) and home phone(s) shall be attempted twice prior to proceeding to the next supervisor. No message shall be left either with an individual other than the supervisor nor on an answering machine. Supervisor notification shall be in the following order:

Supervisor's Name and Title	Work Phone	Home Phone
Timmy J. Currier Chief of Police	769-3577 769-3578	764-1214
Michael J. Kroeger Detective Sergeant	769-3577 769-3578	769-8479
Gerald P. Sharlow Sergeant	769-3577 769-3578	764-0083

**Village of Massena
Police Department**

**Policy and Information
Acknowledgment**

I have received a copy of the "Village of Massena Police Department Drug Testing Policy" which provides information on the following:

1. The Chief of Police or his designated alternate is the person designated to answer questions about these materials;
2. Who is subject to controlled substance requirements;
3. What conduct is prohibited;
4. Circumstances for drug testing;
5. Procedures used to test for the presence of drugs;
6. The requirement that employee submit to controlled substance;
7. An explanation of what constitutes a refusal to submit to testing;
9. Information concerning the effects of controlled substance use on an individual's health, work, and personal life. Signs and symptoms of controlled substance problem and available methods of intervening when controlled substances problem is suspected, including confrontation, referral to an employee assistance program, and/or referral to management.

Signature _____ Date _____

Please Print Name _____

VILLAGE OF MASSENA POLICE DEPARTMENT

DRUG/ALCOHOL TESTING POLICIES

RELEASE FORM

I, _____, hereby authorize,
(name of employee tested)

_____, to release the results of the
(name of testing facility)

Drug or Alcohol Test which I submitted to on _____,
(circle which test) (date of test)

to the Village of Massena Police Department. I submitted to this test
pursuant to the requirements set forth in the Drug/Alcohol Testing Policies
of the Village of Massena Police Department.

(date signed)

(signature of employee submitting to test)

(witness)

APPENDIX 3

MEDICAL PHYSICAL POLICY

MASSENA POLICE DEPARTMENT

MEDICAL PHYSICAL POLICY

A. PHYSICAL

On an annual basis (Jan-Dec), all M.P.P.A. members will be required to submit to a medical physical which shall be conducted by a qualified physician. The employer shall pay for physical.

A qualified physician shall assess each employee on a case by case basis to determine whether the employee can, with or without reasonable accommodations, perform the essential functions of a police officer (see attached).

The examining physician shall complete a medical examination form based upon the medical review of the employee. The existence of a condition which would prevent the employee from performing the essential functions of a police officer shall not preclude the qualified physician from determining that the employee is able to perform the essential job functions. Nothing herein, however, shall preclude the qualified physician or practitioner from noting the existence of any other condition which would prevent the employee from performing the essential functions of police officer.

Upon completion of the medical examination, the qualified physician shall complete and sign the medical examination form, and render his/her medical opinion to the employer as to whether the employee can perform the essential functions of a police officer, noting all relevant medical information.

In the event that the medical examination reveals that the employee has a condition which would prevent him/her from performing the essential functions of a police officer, the qualified physician shall note this on the medical examination form and sign it.

B. PHYSICIAN

The physician will be chosen by the employer, and the same physician shall conduct the physicals to each member in a calendar year, unless his/her unavailability renders it impossible. In this case, an alternate, qualified physician shall be chosen by the employer.

C. ESSENTIAL JOB FUNCTIONS (SOME OF, BUT NOT LIMITED TO)

PATROLMAN & PATROL SERGEANT

1. arrest and detain suspects
2. control civil disorder
3. collect and preserve evidence
4. conduct a crime scene search
5. operate a motor vehicle (emergency and non-emergency)
6. conduct enforcement of laws

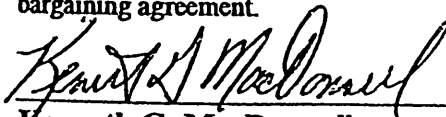
7. exercise emergency preparedness & disaster control
8. render emergency medical assistance
9. conduct interviews and interrogations
10. motor vehicle accident prevention
11. patrol operations
12. conduct search & seizures
13. use of deadly force
14. respond to and investigate complaints
15. use of physical force
16. walk foot patrols
17. others as deemed appropriate by Chief of Police

DETECTIVE SERGEANT:


1. arrest and detain suspects
2. initiate and pursue investigations
3. collect and preserve evidence
4. conduct a crime scene search
5. operate a motor vehicle (emergency and non-emergency)
6. conduct enforcement of laws
7. exercise emergency preparedness & disaster control
8. render emergency medical assistance
9. conduct interviews and interrogations
10. motor vehicle accident prevention
11. develop intelligence on criminal activity
12. conduct search & seizures
13. use of deadly force
14. respond to and investigate complaints
15. use of physical force
16. locate missing persons
17. others as deemed appropriate by Chief of Police
18. locate missing persons


D. DISPUTES

All disputes related to the policies, procedures, standards, exams, test and/or results of such exams, test and/or disputes related thereto, shall be resolved through the grievance procedures in the collective bargaining agreement.



 Kenneth G. MacDonnell
 Village of Massena

6-16-99
 Date

 1-4-03


 Joseph W. Brown
 Massena Police Protective Assoc.

6-16-99
 Date

 01-04-03

ABDOMEN: _____

HERNIA: (Actual or potential) _____ Type _____

GASTRO INTESTINAL: _____ Genito-Urinary: _____

BONES-MUSCLES: Spine: _____ Feet: _____ Posture _____

VEINES: (Varicose) Present: _____ Degree _____

EVIDENCE OF GROWTH OR TUMORS: _____

LABORATORY TEST: Urine: Sp. Gravity - Sugar - Albumin

Blood: Complete blood count - Serology

CHEST X-RAY (last): Date _____ Results _____

I hereby certify that _____ has been examined by me. In my opinion the above named person (is) (is not) free from contagious disease and (is) (is not) physically fit to perform the duties of POLICE OFFICER.

If the examination of the above named person reveals any physical condition which does not meet the prescribed standards furnished by the Massena Police Department, but in the opinion of the medical examiner would not adversely affect the performance of ordinary police duties, the examiner may certify the person physically fit. List below any such conditions and treatment indicated.

DATE: _____ SIGNATURE: _____
(Medical Examiner)

**MASSENA POLICE DEPARTMENT
ANNUAL PHYSICAL EXAMINATION**

EMPLOYEE: _____ DATE: _____

General Apperance: _____

Height (w/o shoes): _____ Weight: _____ D.O.B. ____/____/____ Age _____

Skin: _____

EYES: General Condition: R _____ L _____

Vision (w/o glasses): R _____ L _____

Vision (w/ glasses): R _____ L _____

Vision Acuity Test Used: _____

Is color vision normal: _____

EARS: General (Otoscopic) R _____ L _____

Audiometer testing between 500 and 6,000 cycles per second.

Threshold levels -	dB	R _____	L _____	500 cycles/sec.
	dB	R _____	L _____	1,000 cycles/sec.
	dB	R _____	L _____	2,000 cycles/sec.
	dB	R _____	L _____	4,000 cycles/sec.
	dB	R _____	L _____	6,000 cycles/sec.

NASOPHARNYX: Nasal Obstruction _____ Tonsils _____

MOUTH: Teeth _____ Oral Hygiene _____ Malocclusion _____

SPEECH: Clear _____ Coherent _____ Impediment _____

GLANDS: Enlarged thyroid _____ Enlarged lymph nodes _____

CHEST: Lungs (Pathology) R _____ L _____

CARIOVASCULAR SYSTEM: Blood Pressure _____ / _____

Pulse at rest _____ Two Min. after exercise _____

HEART: _____

APPENDIX 4

ALCOHOL TESTING POLICY

MASSENA POLICE DEPARTMENT

ALCOHOL TESTING

1998

This policy establishes clear standards concerning alcohol. It further establishes a testing procedure, to ensure that those standards are met.

A. DEFINITIONS:

1. Confirmation Test: A second test, following a screening test with a result of 0.02 or greater. A test that may be requested by an employee that is conducted by the original testing laboratory, which retest and analysis the original body sample for the purpose of measuring the presence or absence of alcohol.
2. Alcohol testing: Analysis of a body component sample, including breath and urine, for the purpose of measuring the presence or absence of alcohol.
3. EBT (evidential breath testing device): An EBT similar or like the type approved by the National Highway Traffic Safety Administration.
4. Employee: Any person listed in section C, "Persons Subject to Testing".
5. Employer: The Village of Massena, acting through a department head or any designee of the department head.
6. Impairment due to alcohol use: A positive test result of 0.02 or greater, is regarded as impairment under this policy.
7. Initial screening test: A alcohol test, which uses a method of analysis and being capable of providing data as to the blood alcohol of an employee.
8. Positive test result: A finding of the presence of alcohol of 0.02 or greater.
9. Demonstrated cause: A basis for forming a belief based on specific facts and rational inferences drawn from those facts. See section E.
10. Safety sensitive function(s): Means any on-duty time, includes all time from the time the employee begins work, to the time he/she is relieved from work and all responsibility for performing work.

B. DEPARTMENTAL WORK RULES:

An employee covered by this policy, may be subject to discipline for violation of the following work rules:

1. No employee shall perform safety sensitive functions within 8 hours after using alcohol.
2. An employee's use, possession, sale, or transfer of alcohol during working hours, or while the employee is on the employer's premises, or operating the employer's vehicle, or equipment is prohibited, with the following exceptions:
 - a. such use or possession is pursuant to a valid medical prescription; or
 - b. possession of alcohol while being transported in an employee's personal vehicle, in and of itself, is not a violation of this policy.
 - c. possession, sale or transfer of alcohol is part of the employee's job duties.
3. An employee involved in a personal injury vehicular accident, while driving a village vehicle, shall be immediately tested, or as soon as appropriate, for the presence of alcohol. SEE SECTION D.2
4. No employee, while on duty, shall engage, attempt to engage, or conspire to engage in conduct which would violate any law or ordinance concerning alcohol.
5. All employees must notify the Chief of Police of any alcohol related offenses within 12 hours of arrest.

C. PERSONS SUBJECT TO TESTING:

All Massena Police Protective Association (M.P.P.A.) are subject to testing.

The employer will request or require an employee to undergo alcohol testing only under the circumstances described in this policy in section D. However, no employee will be tested for alcohol under this policy without the employee's consent, with the following provisions.

1. **Right to refuse:** Employees have a right to refuse to undergo alcohol testing. If an employee refuses to undergo testing requested or required by the employer, no such test shall be given. A refusal to test will be considered a positive test of 0.04 or greater. The employee may be removed from duty.

2. Consequences of refusal: Employee refusal to undergo alcohol testing requested or required by the employer shall lead to administrative and/or disciplinary action. Discipline shall follow section H, 2.

D. CIRCUMSTANCES FOR DRUG OR ALCOHOL TESTING

1. Demonstrated Cause: The employer may request an employee to undergo alcohol testing if the employer or any supervisor of the employee trained in the detection of probable alcohol use directly observes an employee whose conduct or appearance is indicative of use of alcohol.
2. Post Accident: Following an accident involving a village vehicle, where there is a loss of life or employee is in violation of State or local law for a moving violation arising from the accident, the employee shall undergo alcohol testing.
3. Return-to-duty: Where an employee has had a test result of 0.04 or greater for alcohol; then the employee shall not return to work until after undergoing return-to-work tests indicating an alcohol concentration of less than 0.02.
4. Follow-up: Following a determination by a substance abuse professional that an employee is in need of assistance in resolving problems with alcohol abuse and employee shall be subject to unannounced follow-up alcohol testing as directed by the substance abuse professional. Follow-up testing shall not exceed 24 months from the date of employee's return to duty.

An employee shall be compensated for all time spent providing a breath sample or urine specimen, including travel time to and from collection site, in order to comply with demonstrated cause, post accident, or follow-up testing.

E. DETERMINATION OF IMPAIRMENT OR BEING UNDER THE INFLUENCE DUE TO USAGE OF ALCOHOL OR DRUGS

As indicated in Section D.1., before an employer can request or require an employee to undergo drug and/or alcohol testing. The employer must show demonstrated cause that the employee is impaired due to alcohol usage or is under the influence of alcohol. In general, a demonstrated cause of impairment or being under the influence exists when the employee displays characteristic of intoxication through words or actions, and may be coupled with observable incompetent or inefficient job performance.

Relevant observations of the employee's words and conduct that alone or in combination may indicate include but are not limited, to the following examples of demonstrated cause:

- | | |
|------------------------------|--------------------|
| a. slurred speech | i. inattentiveness |
| b. disorientation | j. excitement |
| c. odor of alcohol on breath | k. irritability |

- d. unsteady gait or balance
- e. glassy eyes
- f. drowsiness
- g. euphoria
- h. mood swings
- i. aggressiveness
- m. intoxicated behavior w/o odor alcohol
- n. impaired job performance

All personnel involved in the determination of demonstrated cause must immediately document any and all information received, observations, and actions taken. All such reports must be immediately forwarded to the Chief of Police and the affected employee.

Further, supervisors of employees covered by this policy shall, annually attend training on the determination of demonstrated cause factors, a minimum of one hour on alcohol misuse and one hour on controlled substances use, to misuse and use of controlled substances.

F. PROCEDURE FOR TESTING

1. **Notification form:** Before requesting an employee to undergo alcohol testing, the employer shall provide the employee with the "Employee Consent To Drug and/or Alcohol Testing" form, Appendix C, on which the employee will:
 - a. acknowledge that the employee has seen a copy of the employer's alcohol testing policy;
 - b. indicate any over-the-counter or prescription medications that the employee is currently taking or has recently (within the last month) taken and any other information relevant to the reliability of, or explanation for, a positive-test result; and
 - c. indicate consent to undergo the alcohol testing.
2. **Medical facility consent form:** The employee must also indicate consent to undergo the alcohol testing on any consent forms necessary to effectuate purposes of this agreement.
3. **Identification of samples:** Each sample shall be sealed into a suitable container free of any contamination that could affect test results, immediately labeled with a specimen identification number, initialed by the employee, and dated by the person witnessing the sample.
4. **Chain of custody:** The employer shall maintain a written record of the chain of custody of the sample, and ensure proper handling thereof.
5. **Laboratory:** All testing shall use the services of a testing laboratory certified by the Substance Abuse & Mental Health Service Administration (SAMHSA), formerly NIDA, of the Department of Health and Human

Services (DHHS). However, no test shall be conducted by a laboratory owned or operated by the Village of Massena.

6. Methods of analysis: The testing laboratory shall use methods of analysis and procedures to ensure reliable alcohol testing results, including standards for initial screening tests and confirmatory tests. For a positive alcohol test result using an EBT, a confirmation test shall be conducted no sooner than 15 minutes after the initial test.
7. Retention and storage: All samples, except breath samples, from an initial screening test, that produced a positive-test result shall be retained and properly stored for at least six (6) months.
8. The employer shall, within (1) working days after receipt of test result report from MRO, notify the employee of the results of demonstrative cause and post-accident tests for alcohol.

G. RIGHTS OF EMPLOYEES

1. The right to request and receive from the employer a copy of the test result report.
2. Within seventy-two (72) hours after a notice from the MRO of a positive alcohol test result, the right to request, in writing to the MRO, a confirmatory retest of the original sample at the employee's expense at the original testing laboratory or another DHHS-certified testing laboratory. If the result of a requested confirmatory test is negative, then the employer shall pay for such retest.
3. If employee has not contacted the MRO within the 72 hours, as specified in G.2., the employee may present to the MRO information documenting that a serious illness, injury, or other circumstances unavoidably prevented employee from timely contacting the MRO. If the MRO concludes there is a legitimate explanation for failure to contact the MRO within 72 hours, the MRO may direct the retest in as detailed in G.2.
4. The right not to be discharged, disciplined, discriminated, or requested or required to undergo rehabilitation on the basis of a positive test result from an initial screening test that has not been verified by a confirmatory test.
5. The right of an employee who has been suspended without pay to be reinstated with back pay if the outcome of the confirmatory test or requested confirmatory retest is negative.
6. The right not to be discharged, disciplined, discriminated, or required to be rehabilitated on the basis of medical history information revealed to the employer concerning the reliability of, or explanation for, a positive test

result unless the employee was under an affirmative duty to provide the information before, upon, or after hire.

7. The right of access to information in the subject's personnel file relating to positive test result reports and other information acquired in the alcohol testing process, and conclusions drawn and actions taken based on the reports or acquired information.
8. The right of an employee who has made a timely request for a confirmatory retest to suffer no adverse personnel action if the confirmatory retest does not confirm the result of the original confirmatory test, using alcohol threshold detection levels as established for a confirmatory retest.
9. The right of an employee to refuse to take a breath test if the BAT can not or does not produce qualification certification to employee to be tested upon employees request.

HL ACTION AFTER TEST

The employer will not discharge, discipline, discriminate, or request or require rehabilitation of an employee solely on the basis of a positive test result from an initial screening test that has not been verified by a confirmatory test and in any confirmatory retest, the employer will do the following unless the employee has furnished a valid medical reason for the positive test result:

1. For alcohol test result indicating an alcohol content of 0.02 or greater but less than 0.04 the employee shall be removed from duty for 24 hours following administration of the test. For a first offense the employee shall be permitted to use vacation, sick time, holiday(s), or time without pay for the hours of work missed. For the second offense, the employee shall receive a written warning plus suspension of that shift, or remainder thereof. Also, the employee will be referred to the employee assistance provider. For the third offense, the employee shall receive a three (3) scheduled shift suspension plus suspension of that shift or the remainder thereof. Also, the employee will be referred to the employee assistance provider. For a fourth offense, the employee may be disciplined, up to and including discharged from employment.
2. For an alcohol test result indicating an alcohol content of 0.04 or greater, the employee will be:
 - a. removed from duty; and
 - b. referred for an evaluation by a substance abuse professional. If that evaluation determines that the employee has a chemical dependency or abuse problem, the employer will give the employee

an opportunity to participate in, at the employee's own expense or pursuant to coverage under an employee benefit plan, either a drug or alcohol counseling or rehabilitation program, whichever is more appropriate as determined by the substance abuse professional. The employer will monitor participation and compliance with counseling or a rehabilitation program.

If the employee:

- i. refuses to participate in the counseling or rehabilitation program; or
- ii. fails to successfully complete the program, as evidenced by withdrawal from the program before its completion; or
- iii. is unable to perform his duty because of a positive test result on any subsequent return-to-duty or follow-up testing after completion of the program; or
- iv. presents a direct threat to property or the safety of others, or is otherwise considered unable to perform in good faith; then

the employer may discharge the employee from employment; and

c. Employee shall be allowed to return to duty if:

- i. Employee has been evaluated by a substance abuse professional; and
- ii. Completed any recommended treatment; and
- iii. Taken a return-to-duty test with a negative drug test result or an alcohol test result indicating an alcohol content of less than 0.02; and
- iv. Subject to required follow-up testing;

d. Employee may use vacation, sick time, time off without pay, or floating lieu holiday(s), for the time period between the determination of a positive test and evaluation by the substance abuse professional. Disciplinary suspension time (time without pay), Section H.1, H.2.c, shall be served prior to using such time; and

e. For a first positive alcohol test conducted under this policy, the employee shall receive a written warning plus suspension of that shift or remainder thereof. For a second positive test the employee shall receive a three (3) scheduled shift suspension plus suspension

of that shift or remainder thereof. For a third positive test, the employee shall be disciplined, up to and including discharged from employment.

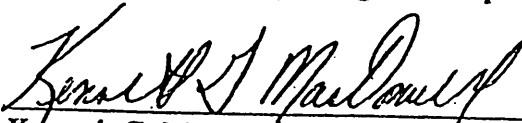
3. Other misconduct: Nothing in this policy limits the right of the employer to discipline or discharge an employee on grounds other than a positive-test result in a confirmatory test.

I. DATA PRIVACY


1. The purpose of collecting a body component sample of breath or urine is to test that sample for the presence of alcohol. A sample provided for alcohol testing will not be tested for any other purpose. The name, initials, and social security number of the person providing the sample are requested so that the sample can be identified accurately but confidentially. Information about medications and other information relevant to the reliability of, or explanation for, a positive test result is requested to ensure that the test is reliable and to determine whether there is a valid medical reason for any alcohol in the sample.
2. All data collected, including that in the notification form and the test report, is intended for use in determining the suitability of the employee for employment. The employee may refuse to supply the requested data; however, refusal to supply the requested data may affect the employee's employment status. The employer and the testing facility will not disclose the test result reports and other information acquired in the alcohol testing process to another employer or to a third party, individual, governmental agency, or private organization without the written consent of the employee tested, unless required by court order.

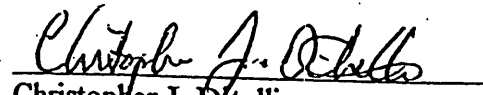
I. APPEALS PROCEDURES

1. All disputes related to the policies, procedures, standards, test and/or results of such test, and or/ disputes related thereto, shall be resolved through the grievance procedures in the collective bargaining agreement.



Kenneth G. MacDonnell
Mayor

6-16-99
DATE

 1-4-03


Christopher J. DiTullio
Massena Police Protective Assoc.

6-16-99
DATE

 01-04-03

VILLAGE OF MASSENA POLICE DEPARTMENT

DRUG/ALCOHOL TESTING POLICIES

RELEASE FORM

I, _____, hereby authorize,
(name of employee tested)

_____, to release the results of the
(name of testing facility)

Drug or Alcohol Test which I submitted to on _____,
(circle which test) (date of test)

to the Village of Massena Police Department. I submitted to this test
pursuant to the requirements set forth in the Drug/Alcohol Testing Policies
of the Village of Massena Police Department.

(date signed)

(signature of employee submitting to test)

(witness)

APPENDIX 5

K9 AGREEMENT

K9 GARCIA – Fair Labor Standards Act

The following is an agreement with the Massena Police Department Canine Officers, pursuant to the Fair Labor Standards Act (F.L.S.A.), December 30, 1985 ruling on the Garcia v. San Antonio Metropolitan Transit Authority.

A. Settlement of Claim previous to June 1, 2000

Each Canine Officer will be compensated in full for all claims prior to June 1, 2000 in the amount of \$ 10,000.00. Amount paid in two (2) equal installments on July 1, 2000 and July 1, 2001 (each \$ 5,000.00).

first might be paid prior to June 1, 2000

B. Future FLSA compensation:

1. The Village of Massena will pay for all Veterinary bills for canine.
2. The Village of Massena will pay up to \$ 360.00 annually for canine food.
3. The Village of Massena will pay up to \$ 200.00 annually for kenneling.
4. Canine Officers will be compensated for the care of the canine at home in the amount of \$ 2,000.00 annually.

This amount will be paid in two (2) equal payments (\$ 1000.00) on the first pay period in July and January.

This agreement would satisfy any and all claims related to care for the canine while the officer is off duty.

5-11-00
DATE

5-10-00
DATE

5-10-00
DATE

5-10-00
DATE

Kenneth G. McDonnell
KENNETH G. MCDONNELL, MAYOR

Anthony M. Fiacco
ANTHONY M. FIACCO, PRESIDENT

Edward EJ Clary
EDWARD EJ CLARY, K9 OFFICER

Scott F. Rogers
SCOTT F. ROGERS, K9 OFFICER

KRM 1-4-03

01-04-03