

**FLORIDA STATE
FRATERNAL ORDER OF POLICE
LABOR COUNCIL**



LEGAL DEFENSE PLAN

TERMS AND CONDITIONS MANUAL

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Article I. INTRODUCTION

Section 1.01 Legal Defense Plan Established.

- (a) The Legal Defense Plan ("LDP") is established for the benefit of members of the Florida State Lodge of the Fraternal Order of Police, Inc. ("FSL FOP") who, because of their activities related to law enforcement find themselves in need of legal counsel. The LDP is not a "prepaid legal defense plan" and is not established as, nor intended to be, a "welfare benefit plan" for purposes of the Employee Retirement Income and Security Act of 1974 ("ERISA"). FOP members are entitled to plan benefits solely by virtue of membership in the FOP. Legal defense costs are funded solely by membership dues and other donations. No separate premiums are paid by members of the program. Any questions related to the LDP should be directed to the Chairman of the Labor Council Committee, and/or Counsel to the Committee.

Section 1.02 Qualified Participants.

- (a) Any active Florida Law Enforcement Officer as defined in Section 943.10, Florida Statutes; any active Federal Law Enforcement Officer whose base office is located within the State of Florida; and any other active law enforcement officer as defined in this booklet; shall be entitled to participation and benefits under the LDP upon the payment of dues, as set forth in Article 3 of the LDP Terms and Conditions Manual, provided that each such law enforcement officer is a member of a Fraternal Order of Police Lodge which is in good standing.
- (b) Reserve and Part Time Law Enforcement Officers (as defined by the Criminal Justice Standards and Training Commission, Chapter 943, Florida Statutes) shall be entitled to participation and benefits under the LDP upon the payment of dues as set forth in Article 3 of the LDP Terms and Conditions Manual, provided that each such Reserve and Part Time Law Enforcement Officer is a member of a regular Lodge or an Associate Lodge of the Fraternal Order of Police.
- (c) Public Employees that are not law enforcement officers and are employed by a government employer shall be entitled to participation and benefits under the LDP upon payments of dues as set forth in Article 3 of the LDP Terms and Conditions Manual, provided that such Public Employees are members of an Associate Lodge of the Fraternal Order of Police.

- (d) Tactical Medical Professional shall be entitled to participation and benefits under the LDP upon the payment of dues, as set forth in Article 3 of the LDP. Tactical Medical Professionals are eligible for coverage under this plan while actively operating in direct support of a tactical operation by a law enforcement agency, pursuant to F.S.S. 790.25(2)(q), within the State of Florida. Tactical Medical Professional means a paramedic, as defined in s. 401.23, a physician, as defined in s. 458.305, or an osteopathic physician, as defined in s. 459.003, who is appointed to provide direct support to a tactical law enforcement unit by providing medical services at high-risk incidents, including, but not limited to, hostages incidents, narcotics raids, hazardous surveillance, sniper incidents, armed suicidal persons, barricaded suspects, high risk felony warrant service, fugitives refusing to surrender, and active shooter incidents.
- (e) "Qualified Retired Law Enforcement Officers," as that term is defined in Section 790.052(1)(c), Fla. Stat., who were FOP members during their active service as law enforcement or correctional officers.

Section 1.03 Definitions. The definitions listed here, apply to all the LDP terms and conditions unless otherwise noted in the text.

- (a) "Administrative": relating to the specific department or agency which employs a Participant.
- (b) "Benefit By-Law of LDP": The Legal Defense Plan as described in this booklet.
- (c) "Calendar Quarters": The three-month period beginning on the first day of January, April, July or October of each year.
- (d) "Claim": A request by a Participant for representation arriving out of a duty related incident or event to which the LDP applies as defined and provided in this booklet.
- (e) "Committee": The Labor Council Committee of the Florida State Lodge Fraternal Order of Police, Inc.
- (f) "Concerted Labor Activity": An FOP Lodge sanctioned activity that results in administrative discipline. Sanctioned activity is one that the Participant's FOP Lodge has voted to support and directed Lodge members to initiate.
- (g) "Critical Incidents": Any actual or alleged duty related act or omission for which a Participant may be criminally or administratively charged and for which the Participant has received less than twenty-four (24) hours' notice of any interview, interrogation, questioning or court hearing (including questioning, for the use or alleged use of deadly force in a duty related incident). In order to qualify as a Critical Incident, the Participant must not be able to reschedule the interview, interrogation, questioning or hearing for a later date in order to allow the

Participant to notify the Committee Chair or a Labor Representative of the Committee.

- (h) "Duty Related": An act or omission of a Participant committed or omitted in furtherance of his/her duties as an employee of a law enforcement agency or as a law enforcement officer and arising within the course and scope of the employment of the Participant while performing his/her duties as an employee, while serving in a law enforcement capacity, or while serving as a law enforcement officer, including the protecting of persons or property from illegal acts while the Participant is technically off duty.

Any question whether an act is duty-related will be considered by the Executive Board of the Committee. The decision by the FSL FOP Labor Council Executive Board Committee shall be final.

- (i) "Eligibility": Claimant must be an active Participant at the time of filing the Claim and at the time the incident which is the subject of the claim occurred. Claimant must also maintain paid status with the LDP during any active case.
- (j) "Employment": Employment as a public employee as defined herein.
- (k) "Event": Act or omission of a Participant which gives rise to civil, criminal, or administrative action; "event" does not refer to civil, criminal, or administrative action initiated by employer.
- (l) "Executive Board": Seven-member body (four appointed, three elected) that administers the LDP among other things, and is commonly referred to as the Labor Council Committee.
- (m) "FSL FOP": Florida State Lodge Fraternal Order of Police, Inc.
- (n) "FSL FOP Executive Board": The elected officers of the Florida State Lodge Fraternal Order of Police, Inc.
- (o) "Incidents": An actual or alleged duty related act or omission covered by the LDP, committed by a Participant and reported to the LDP.
- (p) "Law Enforcement Officer": (1) any active law enforcement officer, (2) any reserve or part time law enforcement officer who has completed basic training, (3) any other active law enforcement officer as defined in this manual, provided that each such law enforcement officer is a member of an FOP Lodge or is someone in whose name an FOP Lodge makes dues payments to the Legal Defense Plan. In Florida, to determine issues of law enforcement officer status or basic training, reference shall be made to applicable Florida Statutes; for other jurisdictions, reference shall be made to comparable Statutes, or, in the absence of such Statutes, to Florida Statutes by analogy.

- (q) “LDP” or “Legal Defense Plan”: The Legal Defense Plan administered by the Committee, providing legal services to participants.
- (r) “Member Lodge” or “Lodges”: Any active Lodge of the Fraternal Order of Police as defined in the FSL FOP by-laws and constitution, which participates in the Legal Defense Plan.
- (s) “Member”: An active member in good standing with a Local Lodge. The Florida State Lodge and the Legal Defense Plan or a public safety employee in whose name a Local Lodge makes dues payments to the LDP.
- (t) “Monitor”: Action by the Committee or its designee to observe the progress of a civil case against a Participant in which defense has been tendered by the Participant’s employer under Article 4, Section B (1), to determine whether the appointment of a Plan Attorney as individual counsel for the Participant is necessary. Monitoring may include but shall not be limited to receipt and review of pleadings, discovery documents and status reports from employee’s legal counsel, and discussion with the employee’s legal counsel when necessary.
- (u) “Plan Attorney” or “LDP Attorney”: An Attorney or Law Firm selected by the Committee and under contract with the Committee to provide legal services under the LDP.
- (v) “Participant”: Anyone who qualifies for benefits under this LDP pursuant to Article 1 hereof.
- (w) “Participating Membership”: The entire body of dues-paying members of the Labor Council Committee of the FSL FOP.
- (x) “Pay Back Agreement”: An agreement between the Committee and the member receiving benefits that must be signed by the member prior to receipt of the benefits that provides for the Committee to recoup any costs or fees if the member receives any monetary compensation.
- (y) “Public Employee”: Any person, not a law enforcement officer, who is employed by a government agency and in whose name a Member Lodge makes contributions to the Legal Defense Plan.
- (z) “Private Attorney”: An Attorney not under contract with the Committee to provide legal services under the LDP retained outside the LDP, and not paid by LDP for legal representation.
- (aa) “Labor Representative”: Full-time employees of the FSL FOP, Inc. employed for the purpose of representing participants under the LDP.
- (bb) “Written request, written authorization, or written notification”: In-person delivery of a written document, mailing written notice to the last known address,

or e-mailing to the last-known e-mail address of the listed party by a Group, the Participant, or the Plan shall be equivalent to mailing.

Article II. PLAN ADMINISTRATION

Section 2.01 Administrative Responsibility.

- (a) The sole and exclusive administration of, and the responsibility for, the proper effective operation of and for carrying out the provisions of this plan is vested in the FSL FOP Labor Council Committee ("Committee"). The Committee shall have the authority to make such uniform rules and regulations and to take such actions as may be necessary to carry out the provisions of the Program. All decisions of the Committee shall be final, binding and conclusive.
- (b) The Committee may modify, amend or terminate the Plan at any time. Any change shall become effective for all participation fees due, benefits accruing, and claims made to Participants or reported to the Plan on or after the effective date of the change.

Section 2.02 Committee Membership.

- (a) The Committee is made up of seven (7) members as described in the Constitution Regulations of the FSL FOP.

Section 2.03 Committee responsibilities.

- (a) To review all expenditures related to the LDP.
- (b) To review and amend the LDP as needed.
- (c) To approve reasonable over-runs of expenses in special circumstances.
- (d) To conduct appeal hearings as required.

Section 2.04 LDP Complaint Procedure.

- (a) It is the policy of the Committee to encourage and solicit comments regarding the administration of the LDP. Any person who is dissatisfied with any aspect of the administration of the LDP is requested to follow the complaint procedure below. Note that denial of LDP benefits are appealable only as set forth in the "Appeal Procedures" section of this manual.
- (b) Complaints should be set forth in writing and directed to the Chief of Staff. If the complaint involves the Chief of Staff, then the member shall contact the Committee Chairperson.

Section 2.05 Limitation of Rights.

- (a) Neither the establishment of the LDP nor any modification thereof, nor the creation of any fund or account, nor the payment of any benefits, shall be considered as giving any Participant or other person any legal or equitable right of action or recourse against the LDP, the Committee, the FSL FOP or its members or employees, except as provided in this Terms and Conditions Manual.

Section 2.06 Confidentiality.

- (a) It is agreed and understood that each Participant who applies for benefits under the LDP is entitled to the same rights and consideration including the right of confidentiality to which any client of an attorney is entitled and no one, including without limitation the Committee Chairperson, the FSL FOP President, Labor Representatives, nor members of the Committee shall be required to, nor will they, reveal to any other persons including the FSL FOP's officers, agents, or employees, any matters revealed to them in confidence by such Participant in the course of his/her application for benefits or in the course of representation.

Section 2.07 Independent Contractors.

- (a) All Plan Attorneys and other providers of service are independent contractors and not agents of the LDP, the Committee or the FSL FOP.

Section 2.08 Policy Territory.

- (a) LDP coverage applies to incidents in Florida, which are reported during membership in the LDP provided the suit, proceeding or criminal action is brought within the United States.

Section 2.09 Relations of Parties.

- (a) The Committee will have access to a case through the Participant. Any Executive Board member, Committee Chairperson, the FSL FOP President, Participant's Labor Representative, Chief of Staff, or Plan Attorney may request information about a case from the Participant for administrative reviews and appeals.
- (b) This information will only be viewed by the Committee Chairperson, the FSL FOP President, Chief of Staff, or Labor Representatives of the Committee. If a Participant refuses to provide information, the Committee Chairperson or the FSL FOP President may suspend any benefits from the LDP.
- (c) If the Executive Board of the Committee or the Committee Chairperson decide it is necessary to suspend benefits, the attorney(s) and the Participant shall be notified in writing as to this decision.

Article III. ELIGIBILITY FOR PLAN BENEFITS

Section 3.01 Contributions (Dues).

- (a) The LDP provides legal services as prescribed in this manual to its Participants. The subscription amounts are determined by the Committee. All LDP dues are due by the 21st of each month preceding the month of service (i.e. due January 21st for service in February). Late payments will result in Participants not being covered for benefits until payment is received. Payments may be made through the Participants' local lodges to the Committee, or by the member directly to the LCC.

Section 3.02 Initial Entitlement to Benefits.

- (a) A law enforcement officer or public safety employee who is an LDP member shall become a participant entitled to benefits as set forth in Article 3 hereof for acts or omissions of the participant upon satisfaction of the following:
 - (i) The FOP Member Lodge or individual member has made proper application pursuant to Section 2 of this Article to the Committee, and;
 - (ii) All dues have been paid, and;
 - (iii) If the member's dues are paid by a lodge, that lodge must provide a list of participants which includes names, addresses, telephone numbers, , dates of birth, and agencies of employment to the Committee's administrative office. , and;
 - (iv) Before benefits are paid under the LDP, the person on whose behalf the benefits are to be paid must be an active dues-paying Participant at the time of the Claim and must have been an active dues-paying Participant at the time of the event or Incident upon which the Claim is based or for which benefits are sought.

Section 3.03 Method of Application.

- (a) Application for participation in the LDP. shall be submitted by:
 - (i) the FOP Member Lodge to the Committee utilizing the process or forms provided by the Committee, or
 - (ii) the individual member utilizing the process or forms provided by the Committee.

Section 3.04 Monthly Dues Payments.

- (a) Each Member Lodge or individual member shall make monthly dues payments for each Participant based on a monthly rate as set by the Committee.
- (b) Payment of dues as set forth in Section 3.01 of this Article shall be made in full on a monthly basis to the Committee on or before the twenty-first (21st) day of each month. Member Lodge or Participant benefits will commence on the 1st day of the

month following receipt of proper application and dues payment. Termination of participation in the LDP in mid-month shall not result in refund of dues for that month. No refunds of dues will be made by the LDP.

- (c) Payment shall be deemed to have been made as of the date of postmark on the envelope containing the payment, provided it has been properly addressed to the Committee, as outlined in the LDP Summary Description. The foregoing shall not apply; however, where payment is made by a check which is not honored at the bank upon which it was drawn. Payment made electronically shall be deemed to have been made on the date it was properly submitted.
- (d) Delinquency.
 - (i) If dues payments are not made as required in this Section, benefits under the LDP for the Participant(s) shall cease on the first day of the month following the payment due date described in Section 3.04 of this Article. Neither the delinquent Member Lodge nor any Participant(s) shall thereafter be entitled to the benefits of the LDP during the period of delinquency. The LDP shall notify each Member Lodge or Participant of their delinquency. The interest rate for late payments shall be five percent (5%) per month.
 - (ii) If the delinquency continues for more than sixty (60) days, the Committee Chairperson or designee shall notify the Member Lodge and/or all Participants that abandonment is not in the benefit and that they have an opportunity to correct the delinquency, including interest, within thirty (30) days.
 - (iii) After ninety (90) days of delinquency, the Committee Chairperson or designee shall notify the Member Lodge and/or all Participants that the Member is no longer a Participant in the LDP and re-application must be made.

Section 3.05 Withdrawal.

- (a) Any Member Lodge may withdraw from the LDP by submitting a written resignation to the Committee Chairperson by certified mail. The Member Lodge must continue payment of dues for any Participant(s) being provided benefits. Any Member Lodge that fails to continue a Participant (s) dues shall be responsible for any expense incurred by the LDP and the Committee Chairperson shall notify the Participant(s) that benefits have ceased due to Member Lodge abandonment or resignation.

Section 3.06 Abandonment.

- (a) Any Member Lodge that has abandoned or resigned from the LDP may make re-application to the LDP in the same manner as new members with the provision that the application shall be accompanied by payment of all delinquent dues and interest from the date of abandonment or resignation. The Committee shall have the right to accept or reject the application.

Section 3.07 Termination Of Benefits.

The benefits for a Participant shall automatically terminate:

- (a) When his/her participation (i.e., through non-payment of dues or here-under) in the LDP terminates, or
- (b) When his/her membership in the FOP terminates, or
- (c) When membership in his/her Member Lodge terminates, or
- (d) Subject to Section 3.09 of this Article, when employment of the Participant terminates, or
- (e) When the Participant voluntarily resigns as a Law Enforcement Officer or Public Safety Employee, and a three-year time period has passed. The Participant must remain a paid member of LDP during the three (3) years, or
- (f) When participation of the Member Lodge in the LDP terminates, whether voluntarily or by failure to pay LDP dues or Plan dues, or
- (g) When the Participant fails to sign a Pay Back Agreement.
- (h) In the event the Committee assigns a Labor Representative or Plan Attorney to a Participant for case representation and the Participant either rejects/refuses representation by that Labor Representative or Plan Attorney and/or elects to retain a Private Attorney, the member automatically waives LDP benefits including the right to legal representation by a Labor Representative or Plan Attorney for that assigned case and the Committee and FSL FOP shall have no obligation to provide any legal representation/assistance for that case, including but not limited to payment of any legal fees or cost and/or financial assistance of any kind associated with the case.

Section 3.08 Retaining Private Attorney.

- (a) In the event a Participant chooses and/or retains a Private Attorney or other representative, the member automatically waives his/her right to representation provided under the LDP for that case and any other cases arising out of or emanating from the facts which gave rise to the initial case and the Committee, the LDP, and FSL FOP shall have no obligation to provide any representation/assistance, legal or otherwise, for that case, including but not limited to payment of any legal fees and/or costs and/or financial assistance of any kind associated with the case.

Section 3.09 Extended Coverage.

(a) Involuntarily Terminated Participants

- (i) A Participant whose employment is involuntarily terminated shall be entitled to benefits for actions arising from the events involving the involuntary termination of employment.
- (ii) Provision of benefits for one type of action i.e. administrative, shall not automatically entitle the Participant to benefits for another type of action, i.e. criminal prosecution.
- (iii) If coverage has been granted under subsection (A) above and a second or subsequent action involving the Participant is commenced after termination of employment, the Participant shall be entitled to benefits for the second or subsequent action only if (1) the new action arises from the events giving rise to the involuntary termination, and (2) the Participant notifies the Committee Chairperson of the second or subsequent action within sixty (60) days after termination of employment.
- (iv) The member must remain as a dues paying participant of the LDP to be eligible.

(b) Involuntarily Terminated with Prior Cases Pending

A Participant who is being or has been involuntarily terminated shall be entitled to benefits for (1) actions for which coverage was granted prior to termination of employment, and (2) actions involving events which preceded and are unrelated to the events invoking the termination of employment, provided that the Participant notifies the Committee in writing of the action within sixty (60) days of termination and remains a paid Participant in LDP during the case.

(c) Transferred Participants

A Participant who transfers from one FOP Lodge to another within a reasonable period not to exceed sixty (60) days, and who immediately becomes and remains an LDP Participant, at the second agency, shall be entitled to benefits in accordance with the LDP in effect at the initial agency for any event occurring while the

Participant was employed as a Law Enforcement Officer or Public Safety Employee at the initial agency.

(d) Retired Participants

A former Participant shall be entitled to benefits in accordance with the LDP for any act or omission occurring while he/she was a Participant, if, subsequent to the act or omission, he/she retires pursuant to the retirement rules of his/her jurisdiction and remains a paying Participant in the LDP.

Article IV. COVERAGE

Section 4.01 Defense of Criminal Matters.

- (a) Defense of criminal matters shall be unlimited for duty related incidents. Defense of criminal matters for non-duty incidents related to the use of a concealed firearm, while carried lawfully, in defense of self or others, and use of deadly force by non-sworn personnel in support of law enforcement activities.

Section 4.02 Defense of Civil Lawsuits.

- (a) Defense of civil lawsuits arising from duty related incidents, when the employer does not tender a defense under Florida Statutes 111.07.
- (b) The Committee will monitor all civil cases where the employer of the Participant is providing a defense for a Participating Member. The thrust of the defense of the LDP Participant shall be to have their name as a party removed from the case.
- (c) The LDP will not be responsible for any attorney's fees, other fees and for costs over the limit.

Section 4.03 Defense of Administrative Actions.

- (a) The LDP provides for representation, defense and/or legal representation for any administrative proceedings initiated by a Participant's employer that arises and could result in disciplinary action to a Participant or revocation of a Participant's law-enforcement certification. The LDP will pay costs necessary to the administrative representation. However, all costs exceeding \$500.00 require approval of the Committee Chairperson prior to the cost being incurred or funds having been expended.

Section 4.04 Duty Related Traffic Charge.

- (a) The LDP may cover any LDP Participant who receives a duty-related traffic summons in a department vehicle. This coverage will be limited to a maximum amount \$500.00.

Section 4.05 Critical Incidents.

- (a) It is the purpose of the LDP to cover Critical Incidents by providing for legal services for Participants. It will be the Participant who shall determine if an incident is a "Critical Incident" and whether he/she needs representation. All Critical Incidents that are covered by the LDP will be reviewed by the Committee.

- (b) It will be the Participant's responsibility to notify his/her local lodge representative or other lodge officer so he/she may forward to the Chief of Staff, a synopsis of the Incident and to document the need for a Plan Attorney within forty-eight (48) hours of the Incident. In the event none of the aforementioned exists, it will be the Participant's responsibility to notify the Chief of Staff within forty-eight (48) hours of the Incident.
- (c) If the Chief of Staff determines that the Incident was not a Critical Incident needing immediate response by a Plan Attorney, the Lodge of the Participant making the request shall be notified of the reasons why it was not an appropriate request. If no Plan Attorney is available, the LDP shall pay the expenses of the Participant's choice Attorney, with the costs coming out of the appropriate category of coverage (administrative, criminal, and civil) as determined by the Committee Chairperson and the Executive Board of the Committee.
- (d) Critical Incidents shall last a maximum of forty-eight (48) hours. Participant's choice Attorney will not be paid with LDP funds beyond 48 hours from the Critical Incident unless no Plan Attorney is available, and the Committee Chairperson has authorized such payment.

Section 4.06 Legal Representation Involving Affirmative Relief in Job Related Matters

- (a) Subject to subsection (b) hereof, a Participant shall be entitled to legal services in the filing of an action arising from any act or omission within the scope of a Participant's employment and seeking legal or equitable affirmative relief in any court or tribunal of appropriate jurisdiction.
- (b) Benefits shall not be provided under this Section unless the Committee determines, considering all material factual circumstances and legal issues, that there exists a reasonable likelihood of one of the following:
 - (i) A favorable statewide impact on FOP members employed in the same State as the Participant due to the legal issues presented, or
 - (ii) An award and recovery of damages, attorney fees, and the costs from the proposed defendants.

Section 4.07 Case Of General Importance.

- (a) The Committee may in its sole discretion, authorize that legal service benefits be provided for matters of general importance and significance to Participants in any court or tribunal of appropriate jurisdiction in determining whether to authorize benefits under this section, the Committee shall consider the factors set forth in Section 4.06 of this Article.

Section 4.08 Questionable Cases.

- (a) Any question that arises as to whether a case will be covered will be resolved by the Committee Chairperson. Appeals will be to the Executive Board of the Committee as a whole.

Section 4.09 Issues For Which Legal Defense Is Not Available.

- (a) Employment Practices. No benefits shall be provided under the Program for any action arising out of any violation of, or covered by provisions of the Equal Employment Opportunity Act, 42 U.S.C. Section 2000(3) et seq., the Age Discrimination in Employment Act, 29 U.S.C. Section 62.1 et seq., the Americans with Disabilities Act, 42 U.S.C. Section 12101 et seq., the Employee Retirement Income Security Act of 1974, 29 U.S.C. Section 1001 et seq., the Veterans Reemployment Act, 18 U.S.C. Section 2021, et seq., any federal or state whistleblower's statute, or any law, statute, ordinance, regulation, or rule of similar type or description enacted by the federal government or any state or political subdivision thereof, including but not limited to counties and cities.
- (b) No benefits shall be provided for individual claims for pension or retirement benefits under the Program, to obtain, protect, preserve, or set aside pension or retirement benefits, other than disability retirement benefits as described above, under any federal, state, county, city, or city and county pension retirement systems.
- (c) Workers' Compensation. No benefits shall be provided under the Program for any action within the jurisdiction of the Worker's Compensation Act in this or any other state, county or city.
- (d) Offensive Suits: No benefits shall be provided under the LDP for offensive suits except as otherwise provided herein.
- (e) DAVID Violations.
- (f) Racist/Prejudicial Behavior.
- (g) Punitive or other Damages. No benefits shall be provided under the Program to cover any monetary award for damages, including but not limited to punitive or compensatory damages, whether by judgement, settlement or otherwise against a Member in any action.
- (h) Attorney's Fees. No benefits shall be provided under the Program to cover the attorney's fees or costs of an opposing party awarded against a Member in any action.
- (i) Breach of Employment Contract. No benefits shall be provided under the Program relating to the proceedings brought against a Member for a breach of a Member's

individual agreement with his/her employer to remain employed without prior approval of said individual agreement from the Committee.

- (j) Medical. No benefits shall be provided under the Program related to proceedings invoking the medical condition of the Member.
- (k) Bonds. No benefits shall be provided under the Program related to the costs of bail bonds, appeal bonds or other bonds.
- (l) Third Party Recovery. In the event a Member recovers from any third party, any amounts as damages (other than lost compensation), attorney's fees, or costs in a case in which benefits were provided, the FSL FOP shall be entitled to reimbursement from such Member to the full extent of the expenditures made by the Program on behalf of said Member. Member agrees to cooperate with the Committee in obtaining reimbursement, and upon request, to execute any and all necessary documents. If a member has a cause of action against any third party for damages, attorney's fees, or costs and does not wish to pursue the action, he/she will, upon request, assign those rights to the FSL FOP to the extent lawfully permissible and assist the FSL FOP in its prosecution of such action.

Section 4.10 Subrogation

- (a) Prior to the benefits being provided under the LDP, the participant shall sign a Pay Back Agreement should any fees be recouped.
- (b) Where appropriate in any litigation, the costs of such suit shall be sought as a part of the suit. All fees and costs expended from this Plan shall be paid from any award received by the Participant. No Participant will be liable to the Committee if they do not receive an award or judgement.

Section 4.11 Action Against the Legal Defense Program.

- (a) No civil action or claim shall be filed against the Committee or the FSL FOP for benefits or failure to provide benefits under the LDP in any court of competent jurisdiction unless, as a condition precedent thereto, the Participant has exhausted all appeal rights provided in the LDP.

Section 4.12 Off Duty Criminal Coverage.

- (a) Up to five (5) hours (\$1,250) for Criminal Legal Defense for any member arrested or charged with a criminal offense. These services may include, but not limited to, initial appearance, bond hearing, probable cause hearing and other such legal counseling as deemed appropriate. Said Legal Defense under this section pertains to arrest or charge with a criminal offense within the State of Florida.

Section 4.13 Salary Reimbursement Option

- (a) In lieu of Legal Defense Costs, Participants whose claims involve suspension or other discipline resulting in actual salary loss may elect to receive reimbursement of up to three (3) days' actual salary loss. The salary loss must result directly from the matters at issue in the claim, as determined by the Committee. Salary loss shall be calculated at the Participant's regular basic salary rate excluding the value of overtime, perquisites (such as use of a vehicle or other equipment, etc.) and employment benefits, as determined by the Committee. The election may not be rescinded or reversed with respect to the claim or other related claims after the reimbursement benefit is paid. This option may not be elected nor may benefits be paid for more than one occurrence taking place in any one (1)-year period of time, except as the Committee in its discretion may approve otherwise. The Participant has the duty to provide satisfactory proof of salary and actual salary loss. The right to elect this option expires 180 days after the first (1st) day suspension begins.

Article V. LIMITATIONS

Section 5.01 Civil Action Against Public Employee and Employer.

- (a) No benefits shall be provided under the LDP in any civil proceedings in which the Participant's employer or its insurer, whether by agreement, policy or operation of law, agrees to or undertakes to provide a defense, agrees to or undertakes to indemnify the Participant for all general and punitive damages arising out of the proceedings, and is entitled to so agree or undertake the laws of applicable jurisdiction.

Section 5.02 Reservation of Rights by Employers.

- (a) In the event that the Participant's employer agrees to defend the Participant but refuses to fully indemnify the Participant (including indemnification for punitive damages) or asserts a reservation of rights as to the indemnification of the Participant pending the outcome of the proceedings then the Participant shall be entitled to benefits as set forth in Article 3 hereof if the following two (2) requirements are met:
 - (i) The Committee Chairperson determines, in accordance with the advice of legal counsel with expertise in the field of civil litigation, that there is a considerable likelihood that punitive damages will be awarded against the Participant, based on a conflict of interest or other circumstances, and
 - (ii) The Committee is subrogated to the Participant's rights against the employer or its insurer.
- (b) In the event that these two requirements are not satisfied, the Committee shall monitor the case to ascertain if a considerable likelihood of punitive damages subsequently arises, in which event, provided that the Chairman is subrogated to the Participant's rights against the employer or its insurer, the case will then be referred to a Plan Attorney and benefits will apply as set forth herein.

Section 5.03 Employer Refuses Defense.

- (a) In the event the employer or its insurer refuses to defend the civil proceedings, then the Participant shall be entitled to the benefits under the LDP and the Committee shall be subrogated to the Participant's rights against the employer or its insurer.

Section 5.04 Third Party Recovery.

- (a) In the event a Participant recovers from any third party, any amounts as damages (other than lost compensation), attorney's fees, or costs in a case in which the benefits were provided under the LDP, the Committee shall be entitled to reimbursement from such Participant to the full extent of the expenditures made under the LDP on behalf of said Participant hereunder.

Section 5.05 Cooperation.

- (a) Participants agree to cooperate with the Committee in obtaining reimbursement and, upon request, to execute any and all necessary documents. If a Participant has a cause of action against any third party for damages, attorney's fees, or costs and does not wish to pursue the action, he/she will, upon request, assign those rights to the Committee to the extent lawfully permissible and assist the Committee in its prosecution of such action.

Section 5.06 Non-cooperation or Misrepresentation by Participant.

- (a) No benefits shall be provided to a Participant who is untruthful to his/her Plan Attorney, Labor Representative, Chief of Staff, or to the Committee. In such a case, the right of the Participant to a Plan Attorney or Labor Representative hereunder may be terminated or suspended. Furthermore, if benefits are provided to a Participant based upon misrepresentations by the Participant to a Plan Attorney, the Committee, or the Committee's employees, the Committee shall be entitled to terminate or suspend benefits hereunder and to obtain reimbursement from the Participant for the full amount extended under the LDP, for legal services and costs on behalf of the Participant.

Section 5.07 Non-interference.

- (a) No provision of the LDP shall require Committee or its employees or agents or Plan Attorneys or any attorneys associated with them to perform any act in violation of any State Bar Rule of Professional Conduct, including but not limited to any rule which prohibits any organization or group from interfering with or controlling the performance of an attorney's duty to his/her client.

Section 5.08 Settlement Opportunity or Jeopardy.

- (a) Benefits may be terminated in the event the Committee, the Committee Chairperson, or the FSL FOP President determines that it is in the best interest of a Participant to cease his/her participation in any particular case, including but not limited to cases where continued proceedings may subject the Participant to more severe civil, criminal or administrative sanctions, damages, or attorney's fees, or where the Participant has rejected a reasonable settlement proposal to resolve his/her case.

Section 5.09 Appeal.

- (a) No benefits shall be provided to appeal a decision to court unless the Committee, the Committee Chairperson or the FSL FOP President determines upon written request, that there exists a reasonable likelihood of success on the appeal so that the requirements set forth in Article 3 are satisfied.

Section 5.10 Coordination of Benefits.

- (a) Benefits under the LDP shall not be provided to the extent they are furnished to a Participant by any other legal defense program or policy which provides group legal services to Law Enforcement Officers or Public Safety Employees.

Section 5.11 Benefits Paid According to Fee Schedule.

- (a) Benefits under the LDP shall be provided in accordance with the fee schedule for Plan Attorneys as adopted by the Committee and the Participating Membership from time to time. The Committee shall not be responsible for any charges made by a Plan Attorney, or other such person in excess of such fee schedule. Any costs which would otherwise be covered by another benefit or policy of insurance of which a Participant is a member, must be sought from such other benefit or policy insurance before LDP benefits will be used to cover such costs.

Article VI. WHAT TO DO IF YOU NEED LEGAL ASSISTANCE

Section 6.01 Participant's Duty to Notify Chief of Staff of Claim

- (a) Participant shall be obligated to notify the Chief of Staff or Labor Representative of his/her Claim for benefits before he/she is entitled to any benefits under the LDP. Notification to any Attorney, LDP, or FOP Personnel or any party other than the Chief of Staff, the FSL FOP President, or a Labor Representative is ineffective to obtain entitlement benefits.
- (b) Failure to notify the Chief of Staff, the FSL FOP President, or a Labor Representative shall relieve the LDP of any obligation to provide benefits. The Participant must make notification within 24 hours of notice of a covered action. The LDP will not expend fees and costs incurred before approval is granted. Attorneys are not authorized to expend LDP funds prior to receiving the written authorization from the Committee Chairperson, the FSL FOP President, or the Chief of Staff. The only exception to this rule is a Critical Incident where benefits will be considered to be authorized for a period not to exceed five (5) attorney hours. The Participant, a Member Lodge Officer, or the Attorney used must notify and submit a coverage form within 48 hours of a Critical Incident in which LDP coverage is used.

Section 6.02 Acceptance Or Denial of Claim By The Committee.

- (a) The Chief of Staff shall consider each Claim for LDP Benefits and determine whether to grant or deny coverage under the LDP.
- (b) The Chief of Staff may request that transcripts and other written material, to include but not be limited to, the charges against the Participant be provided to the Chief of Staff in order to evaluate if the incident is covered under the LDP. The material shall be provided at the Participant's cost. A Claim shall not be considered received until the Participant has provided the requested material.
- (c) If coverage is granted, the Participant's Member Lodge shall be notified. If the Claim is denied, the Participant has the right to appeal the denied Claim pursuant to the procedures described in Sec. 6.05.

Section 6.03 Referral by Chief of Staff to an Attorney.

- (a) The Chief of Staff shall refer representation of a Participant who is entitled to benefits, to a Plan Attorney. Any dispute concerning the referral of a case to Plan Attorney may be appealed by the Participant to the Committee pursuant to Section 6.05.

Section 6.04 Non-Cooperation of Participant.

- (a) Subject to the appeal rights described above, if a Participant unreasonably refuses representation by the Plan Attorney or Labor Representative selected to represent him/her or fails or refuses to accept the advice of the Committee Chairperson, the FSL FOP President, Chief of Staff, Labor Representatives, or Plan Attorney, the Committee and the FSL FOP shall be free from further obligation to such Participant to provide benefits under the LDP. Such Participant shall be free to employ a Private Attorney at his/her own expense to represent him/her.

Section 6.05 Appeal Procedures

- (a) Denial: If a claim for LDP Benefits made by a Participant is wholly or partially denied, the Committee Chairperson or his/her designee shall give written notification of such denial to the Participant within seven (7) days of receipt of the Participant's claim for benefits. The notification shall include the following information:
 - (i) The specific reason(s) for such denial,
 - (ii) Specific reference to the LDP provisions upon which the denial is based,
 - (iii) A description of any additional material or information which may be needed to clarify or complete the Claim and an explanation of why such information is required.
 - (iv) An explanation of the LDP's review procedure with respect to the denial of benefits

Section 6.06 Request for Hearing.

- (a) Any Participant whose claim has been denied may appeal to the Committee to conduct a hearing in the matter, provided that he/she requests the hearing in writing within thirty (30) calendar days after being notified of the denial, and provided further that the request for a hearing explains to the degree possible, why the reasons for the denial are inapplicable. The Participant may submit written issues and comments to the Committee.
- (b) The Committee shall conduct a hearing no later than sixty (60) calendar days after receipt of the Participant's written request for a hearing. The Participant shall be entitled to present his/her position and any evidence in support thereof at the hearing. Within ten (10) days of the hearing, on the Participant's appeal, the Committee shall issue a written decision, affirming or setting aside the denial of benefits.