

January 10, 2022

TO: Rebecca Poirier, City Clerk
FROM: Jamie Le, Assistant to the City Manager
RE: ***MANAGEMENT and TORRANCE POLICE COMMANDERS' ASSOCIATION (TPCA) JOINT LETTER OF AGREEMENT REGARDING RECRUITMENT AND RETENTION INCENTIVES AND ADMINISTRATIVE APPEALS***

Management and Torrance Police Commanders Association met and have reached an agreement as noted on the attached document. Section 14.8.14.b of the Torrance Municipal Code reads:

"If an agreement is reached by management and a recognized employee organization or recognized employee organization, on matters subject to approval by the City Council, they shall jointly prepare a written and signed memorandum of such understanding and present it to the City Council for determination. *If an agreement is reached on matters not subject to approval by the City Council, those conferring shall jointly prepare a written and signed memorandum of such agreement which shall be filed with the City Clerk.*"

Pursuant to the last sentence of the above paragraph, the City Manager's Office is filing the attached agreement with your office.

Management

**Torrance Police Commanders Association
(TPCA)**

/s/ Jay Hart

/s/ Daniel Moreno

/s/ Jamie Le

/s/ Cody Charley

Joint Agreement between the City of Torrance and TPCA

TPCA and representatives of Management ("City") have met and conferred regarding Recruitment and Retention Incentives and Administrative Appeals

TPCA and City hereby agree to the addition of Section 5.1.A.4 as follows:

Effective November 20, 2022

"SECTION 5.1 EXEMPT FROM OVERTIME UNDER THE FLSA AND ENTITLEMENT TO CONTRACT OVERTIME"

3. Deferred Income: An employee may select to defer overtime payment (only earned at the 1.5 rate) into the 457 plan by submitting the appropriate payroll forms subject to the provisions established in City Resolution No. 74-120 and its amendments. Any overtime earned through the double-time Pilot Program (Section 5.1 A4) cannot be deferred.
4. Watch Commander Double-time Pilot Program
During this pilot program, the 1.5 rate referenced in Section 5.1 A) will no longer apply to patrol watch commander shifts as described in this section. Lieutenants covered by this Agreement shall be compensated by pay at the rate of 2 times the employee's regular hourly rate, based on a 40-hour work week schedule, for overtime Patrol Watch Commander hours worked in excess of a regularly scheduled watch, or on a regularly scheduled day off.
 - a) Overtime shall be computed for actual time worked during scheduled overtime and hold over Watch Commander shifts.
 - b) Double overtime pay is for cash value only. Employees may elect to earn comp (Comp and/or Vacation Comp) but will forego the double time rate and time will be accrued at the rate of 1.5.
 - c) When an employee elects to use comp time but needs to find a replacement, the replacement officer will earn overtime at the standard 1.5 rate.
 - d) The Pilot Program is to begin with the deployment period beginning November 20, 2022 - May 19, 2023 and will be reviewed prior to May 2023."

TPCA and Management hereby agree to the addition of EXHIBIT 4 in its entirety as follows:

Effective January 1, 2023

**“EXHIBIT 4
ADMINISTRATIVE APPEALS PROCEDURE**

ADMINISTRATIVE APPEALS

Effective upon the signing of this Side Letter Agreement, the following administrative appeal process is established pursuant to Government Code §3304.5 and shall supplement the appeal process established pursuant to the City of Torrance Municipal Code.

This procedure shall not apply to disciplinary actions for which officers of the Police Department are already entitled to receive an appeal hearing pursuant to Division 1, Chapter 4, Section 14 of the Torrance Municipal Code as it pertains to suspension, demotion, reduction of pay, and dismissal of officers of the Police Department.

This procedure shall apply only to punitive actions, as that term is defined by Government Code §3303, for which officers do not receive an appeal hearing under Division 1, Chapter 4, Section 14 of the Municipal Code, including, but not limited to, written reprimands and non-disciplinary transfers resulting in a loss of compensation (e.g., non-disciplinary transfer out of a premium pay assignment). Nothing herein shall be interpreted to establish a property interest in any assignment.

1. Right to Administrative Appeal

- A. Any public safety officer (as that term is defined by Government Code §3301) who is subjected to punitive action (within the meaning of Government Code §3303) other than dismissal, demotion, or suspension, or who is subjected to an action which may lead to punitive action, shall be entitled to receive an administrative appeal under this procedure.
- B. Officers will be entitled to appeal an action prior to imposition of the punitive action.
- C. Officers subjected to dismissal, demotion, or suspension shall continue to be entitled to an appeal in accordance with existing procedures set forth in the Division 1, Chapter 4, Section 14 of the Torrance Municipal Code. When such cases also involve a reassignment for disciplinary purposes, the entire case will be heard pursuant to the Municipal Code, e.g., if, as a result of a misconduct case, an officer receives a suspension, and a reassignment, then the case will not be bifurcated. The Civil Service Commission will hear the entire case.
- D. An officer who requests an appeal under this procedure shall bear their own costs in association with the appeal, including but not limited to attorney fees with the exception of cases defined below:
 - 1. If the appeal reaches advisory arbitration and the officer is represented by TPCA, TPCA and the City will split the cost of the arbitrator.

2. Appeal to the City Manager or their Designee

- A. An officer who receives notice of a punitive action shall be entitled to appeal the action to the City Manager prior to the effective date of the punitive action. The appeal is an opportunity for the officer to present written material and arguments why a punitive action should not occur or offer alternatives to the action. The formal rules of evidence do not apply.
- B. Request for Appeal: Within seven (7) calendar days of receipt by an officer of notification of a punitive action, the officer shall notify the City Manager in writing that the officer intends to appeal.
- C. The City Manager, or their designee, shall act as the hearing officer. The City Manager or their Designee shall have **15 calendar days** from receipt of the request to schedule an appeal hearing. **The hearing shall take place within thirty (30) calendar days** of the date the officer was notified about the punitive action.
- D. Burden of Proof/Persuasion: If the punitive action being appealed involves allegations of misconduct (i.e., allegations that the officer has violated one or more federal, state, or local laws, and/or City or Police Department regulations, procedures, or rules), the Department shall have the burden of proving that the action is supported by good cause.

If the punitive action does not involve charges of misconduct, the Department shall have the burden of proving that the reassignment was reasonable, and not motivated by any improper purpose.

If the parties disagree regarding which standard shall apply, the hearing officer may hear argument on that issue and shall decide which standard applies.

- 1. The parties may present arguments through documents and statements.
 - 2. If the punitive action being appealed is a written reprimand, the parties will not be entitled to confront and cross-examine witnesses.
 - 3. Following the presentation of written material and statements, the involved parties may submit closing arguments in writing for consideration by the hearing officer.
- E. Representation: The officer may be represented by an association representative or attorney of his or her choice.
 - F. Decision: After the hearing, a decision will be submitted in writing no later than 30 calendar days after the day of closing arguments. If a reassignment is upheld, it will take place immediately on the next scheduled working day of the officer.
 - G. Deadlines: Deadlines may be extended by written agreement between both parties.

3. Advisory Arbitration

- A. In the event that the City Manager or their designee upholds a reassignment from a premium paid position, and the officer wishes to appeal the decision, an outside hearing officer shall be utilized to hear the case. By January 31 of each year, the TPCA and Department shall each submit three names of hearing officers. From this list, the parties shall strike names until one remains. The officer appealing the punitive action will strike first. The decision of the hearing officer will be advisory only to the City Manager or their Designee.
- B. Burden of Proof/Persuasion: If the reassignment involves allegations of misconduct (i.e., allegations that the officer has violated one or more federal, state, or local laws, and/or City or Police Department regulations, procedures, or rules) the Department shall have the burden of proving that the reassignment is supported by good cause.

If the reassignment does not involve charges of misconduct, the Department shall have the burden of proving that the reassignment was reasonable, and not motivated by any improper purpose.

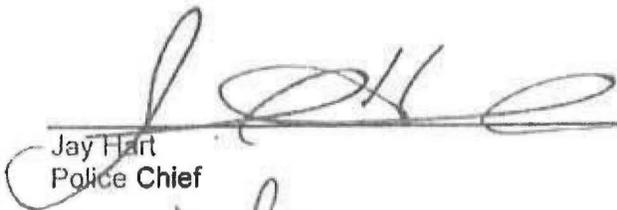
If the parties disagree regarding which standard shall apply, the hearing officer/arbitrator may hear argument on that issue and shall decide which standard applies.

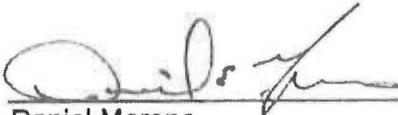
- 1. The parties may present arguments through documents and statements.
 - 2. The parties may call, confront, and cross-examine witnesses.
 - 3. Following the presentation of written material and statements, the involved parties may submit closing arguments in writing for consideration by the hearing officer.
- C. The City Manager or their designee will inform the officer of a **final decision within fifteen (15) calendar days** of receiving the hearing officer's recommended decision. The cost of the arbitrator will be shared equally by both parties."

Signed this 10th day of January 2023

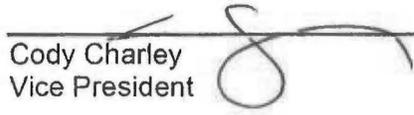
Management

Torrance Police Commanders Association
(TPCA)


Jay Hart
Police Chief


Daniel Moreno
President


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Assistant to the City Manager


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Vice President