



GENERAL ORDER



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SUBJECT: Retirement Program	201	15	December 4, 1977
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	A		
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The purpose of this order is to acquaint members with the conditions and benefits of the retirement program, the procedures to follow in preparing for retirement, and the organization and function of the Police and Firemen's Retirement and Relief Board. This order consists of the following parts:

PART I Responsibilities and Procedures for Members of the Department

- A. Organization of the Police and Firemen's Retirement and Relief Board
- B. Rules of Practice and Procedures for the Retirement Board
- C. Revocation of Police Powers of Members Appearing Before the Retirement Board
- D. Retirement Conditions and Benefits

PART II Responsibilities and Procedures for Supervisory and Command Personnel

- A. Commanding Officers
- B. Director, Internal Affairs Division
- C. Inspector, Police and Fire Clinic Division.

A. Organization of the Police and Firemen's Retirement and Relief Board.

1. Composition.

- a. The Police and Firemen's Retirement and Relief Board, hereinafter referred to as the Retirement Board or the board, shall be composed of members and alternates appointed from among persons who are employees of the District of Columbia, one member and alternate each from the District of Columbia Personnel Office, Corporation Counsel, Department of Human

Resources, Metropolitan Police Force, and the Fire Department of the District of Columbia; and two members, one of whom shall be a physician, appointed from among persons who are not officers or employees of the District of Columbia.

- b. The Director, Field Inspections Division, shall serve as the member for the department.
- c. The member and alternate appointed to the board from the Department of Human Resources shall both be medical officers.
- d. The member appointed to the board from the District of Columbia Personnel Office shall serve as chairman, and in his absence, such member's alternate shall serve as chairman; in the absence of both, the member or alternate appointed to the board from the Corporation Counsel shall serve as chairman.
- e. A quorum shall consist of any five principals or designated alternates, provided that one of the five present must be the chairman or alternate.

2. Purpose and Functions.

- a. The board is established for the purpose of insuring that fair and equitable policies and practices are established and applied in connection with the retirement and relief of all who contribute to the Policemen and Firemen's Relief Fund of the District of Columbia.
- b. The functions of the board shall be to:
 - (1) Consider all cases for the retirement and the relief of the members who contribute to the fund; consider

all cases of retirees who are seeking an increase in the pension relief allowance which they are already receiving; consider all cases of retirees who are required to undergo periodic medical examinations in connection with determining whether the relief allowance in such cases should be continued, increased, decreased, or discontinued, consider all applications for the relief of widows, widowers and eligible children of said members; and applications for the lump sum payment benefit provided in case of performance-of-duty death.

- (2) Approve, or disapprove, all such cases, and fix the amount of pension relief in each instance, as appropriate, except that proposed actions in connection with the relief or the retirement of the Chief of Police and the Fire Chief shall be submitted to the Mayor for his approval, or disapproval; and provided that any action taken by the board, or by the Mayor in the case of the Chief of Police and the Fire Chief, shall constitute final administrative action.
- (3) Develop overall policies to insure fair and equitable treatment in the retirement and the relief of individuals coming within the purview of the board; and serve in an advisory capacity to the Mayor and heads of departments and offices in all matters pertaining to the retirement and the relief of such individuals.
- (4) Perfect and adopt rules of procedure for the conduct and guidance of the board.

- (5) Make findings of fact and conclusions of law necessary in the determination of eligibility for retirement and survivor annuities pursuant to the Policemen and Firemen's Retirement and Disability Act. In making such findings of fact and conclusions of law, the board shall consider the reports or recommendations of the Board of Police and Fire Surgeons concerning the physical or mental condition, or both, of the member for whom involuntary separation or retirement is sought, together with all records and testimony of the Board of Police and Fire Surgeons relating to such member, and such records and testimony of any other person bearing on the matter.
- (6) Express a judgment as to the disability of a member from performing further duty in his department.

3. Summons Authority.

The board is authorized and empowered to summon any person before it to give testimony, under oath or affirmation, as to any matter affecting retirement or relief of any individual whose retirement or relief is being considered; and any member of the board shall have power to administer oaths or affirmations to witnesses appearing before it. Such summons shall be served by a member of the Metropolitan Police or Fire Department.

B. Rules of Practice and Procedure for the Retirement Board.

1. The Retirement Board shall meet as many times each month as it deems necessary to consider the retirement and relief cases of members and retired members of the Police Department, the Fire Department, the Executive Protective Service, the United States Park Police, and those eligible members of the United States Secret Service; applications

for the relief of survivors of members or retired members of said organization, and applications for the lump sum payment benefit provided in cases of performance-of-duty death. Meetings shall be held on Thursdays or on such other days as the Board may deem necessary.

2. Time and Place of Meetings.

The board shall meet at 0930 hours in the conference room of the Police and Fire Clinic, 1 D.C. Village Lane S.W., unless otherwise determined.

3. Waiver of Rules.

The chairman or the board for good cause shown may, in his or its discretion and in the interest of justice or to prevent hardship, waive any of the provisions of these rules in any proceeding.

4. Computation of Time.

- a. In computing any period of time prescribed, the day of the act, event, or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday, or legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday, or legal holiday.
- b. Whenever a party has the right or is required to do some act within a prescribed period after the service of a notice or paper is served upon him by mail, three days shall be added to the prescribed period.
- c. Except as otherwise provided by law, whenever an act is required or allowed to be done at or within a specified time, the time fixed or the period of time pre-

scribed may for good cause be extended or shortened by the board with notice to all parties.

5. Representation.

- a. A party appearing or having the right to appear before the board at a hearing shall have the right to be represented by an attorney admitted to practice before the Bar of the District of Columbia Court of Appeals, and/or another non-legal representative of his own choosing provided a retiree who resides outside the Washington Metropolitan Area may be represented by an attorney or non-legal representative of his choosing.
- b. If it shall appear to the board that the issue or facts in a matter before it are so involved or intricate that a party ought to be represented by an attorney, the board may urge such party to procure the services of an attorney, and if agreeable with the party, it shall allow him a reasonable period of time to do so.
- c. The board shall, in any case in which a party represents himself or is represented by a non-legal representative, take such action as may reasonably be necessary to insure that all information material to the case be developed to the fullest extent possible commensurate with the board's function of sitting as an impartial body.

6. Service of Papers, Methods, Proof.

- a. Any papers required to be served upon a party shall be served upon him or upon the representative designated by him or

by law to receive service of papers. When a party has appeared through a representative, service may be made upon the representative of record.

b. Service may be made by personal delivery, by mail, by telegraph, by mailgram, or as otherwise authorized by law.

c. Service upon a party is complete:

(1) By personal delivery, on handing the paper to the person or leaving it at his office with any person in charge, or if there is no one in charge, leaving it in a conspicuous place therein or, if the office is closed or the person to be served has no office, leaving it at his usual place of residence therein;

(2) By telegraph, or mailgram when deposited with a telegram company, properly addressed and with charges prepaid;

(3) By mail, on deposit in the United States mail, properly stamped and addressed; or

(4) By conformity with an order of the board made in any proceeding.

d. Proof of service, stating the name and address of the person on whom served and the manner and date of service shall be shown, and may be made by:

(1) Written acknowledgement of the party served or his representative.

(2) The certificate of the representative if he has made the service.

- (3) A return receipt if served by registered or certified mail.
- (4) The certificate of the person making the service.

7. Proceedings not Public.

In the absence of a specific request by an applicant for retirement or other benefits for a public hearing, hearings and other proceedings before the board shall not be open to the public.

8. Scheduling of Hearing.

- a. Applications or recommendations for retirement, continued eligibility, or relief may be considered at the next regular meeting following their date of submission to the board.
- b. Persons whose cases are scheduled to be heard by the board shall be notified of the date, time, and location at least 14 calendar days in advance of the meeting, except that thirty days advance notice shall be given in the case of a hearing on the retiree's continued eligibility for disability annuity payments. Any such person may waive the advance notice requirement, in writing, if he so desires.

9. Continuances.

A hearing scheduled to be conducted by the board will not be delayed by a motion for a continuance unless the motion is made within 3 days before the date on which such hearing is scheduled to be held, excluding Saturdays, Sundays, or legal holidays and, in the opinion of the chairman or any person designated by him, sets forth good and sufficient cause for such continuance. Conflicting engagements of

counsel, absence of counsel, or the employment of new counsel will not be regarded as good cause for continuance unless set forth in a motion filed promptly after notice of the hearing has been given.

10. Testimony.

All testimony at hearings before the board shall be under oath or affirmation.

11. Subpoenas.

Subpoenas to compel witnesses to appear and testify and/or to produce all books, records, papers, or documents before the board will be issued by the board on its own initiative and/or upon written request of an applicant or his designated representative, who shall be responsible for arranging for the service thereof. Subpoenas are issued in the name of the Chief Judge of the Superior Court of the District of Columbia and witnesses, other than those employed by the District of Columbia, are entitled to the same fees as are paid witnesses for attendance before the Superior Court of the District of Columbia, although not required to be tendered in advance. Subpoenas issued by the board are enforceable in the manner prescribed in Section 4-603, D.C. Code, 1973 edition, to the same extent as subpoenas of the Superior Court of the District of Columbia.

12. Evidence.

Evidence shall be taken in conformity with Sections 1-1509(b) and 4-533, D.C. Code, 1973, which read as follows:

"In contested cases, except as may otherwise be provided by law, other than this chapter, the proponent of a rule or order shall have the burden of proof. Any oral and any documentary evidence may be received, but the ... (Board) shall exclude irrelevant, immaterial, and unduly repetitious evidence. Every party shall have the right to present in person or by counsel his case or defense by oral and documentary evidence,

to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts. Where any decision of the (Board)...in a contested case rests on official notice of a material fact not appearing in the evidence in the record, any party to such case shall on timely request be afforded an opportunity to show the contrary. The board may, on its own motion, call witnesses to resolve questions of fact."

13. Transcript of Hearing.

Hearings shall be recorded under the supervision of the board.

14. Maintenance of Decorum and Good Order.

Decorum and good order shall be maintained at all times during hearings, and the chairman may, in the enforcement thereof, exclude or have removed from the hearing room any person violating any reasonable order of the board chairman. Attorneys and other representatives may for contemptuous conduct, after having been afforded an opportunity to be heard thereon, be barred from further participation in a proceeding.

15. Consideration of Cases by the Board.

In considering the cases presented to it the board shall:

- a. Make a determination regarding eligibility for disability retirement in cases involving injury or disease.
- b. When it is found to exist, determine whether or not the disability is duty related.
- c. Determine eligibility in optional retirement cases.

- d. Decide all matters pertaining to survivor's relief and lump sum performance-of-duty death benefits.
- e. Determine, on the basis of periodic re-checks, the continuing eligibility of an annuitant.
- f. Determine total disability.

16. Appearance by Members Applying for Retirement Benefits.

- a. Each member appearing before the board for retirement consideration shall be given full opportunity to present such testimony under oath or affirmation and to produce such witnesses to give testimony under oath or affirmation as he may desire.
- b. The said member shall personally appear before the board unless the Board of Surgeons presents medical testimony or a certificate to the satisfaction of the board that the member is unable to appear because of the extreme severity of his physical or mental condition. In such circumstances, the board, in its discretion, may either consider the case in the member's absence on the basis of the medical findings presented by the Board of Surgeons, and any other pertinent information submitted by the member or contained in his records, or visit and examine said member at such place where he may be.
- c. Applications for optional retirement shall be considered by the board on the basis of the applicant's length of service, the medical report presented by

the Board of Surgeons concerning the physical and/or mental condition of the applicant, and any other pertinent information submitted by the applicant or contained in his records. Applicants for optional retirement will not be required to make a personal appearance before the board but may be so required at the board's discretion. Those who express a desire to do so may personally appear before the board.

17. Appearance by Other Applicants for Relief.

- a. In lieu of personally appearing before the board, individuals applying for relief for themselves and/or in behalf of surviving children shall furnish to the board satisfactory evidence of their identity, marriage, marital status, birth, and legal responsibility of the children (and student status of the children when appropriate) at the time of the death of the deceased. With respect to applications for the lump sum payment benefit provided in cases of performance-of-duty death, evidence of dependency also shall be furnished.
- b. The board shall consider applications for relief from the evidence furnished but may, in its discretion, require any individual making such application to personally appear before it. In considering applications for the lump sum payment benefit the board also shall consider the investigative report of the circumstances of death. An appropriate official of the department or agency concerned shall personally present such report to the board. He shall be someone other than the individual serving as a member of the board at the time the application is being considered.

- c. Any applicant for relief who expresses a desire to do so may personally appear before the board.

18. Examination of Records.

- a. Any applicant for retirement, or retiree summoned for review of continued eligibility for disability annuity payments, who is to appear before the board, or his representative, shall be permitted to see and examine his service record and his sick record as kept by his department, and to see the transcript of the record of previous hearings, if any. In the event the applicant has knowledge of any other paper or document contained in the file kept by his department and desires its production before the board at the time of hearing, he shall give notice in writing at least 3 full days before the date set for hearing, excluding Saturdays, Sundays, or legal holidays, expressing such desire and designation of the particular paper or document to the Fire Chief; the Police Chief; the Chief, Executive Protective Service; the Chief, United States Park Police; or the Director of the United States Secret Service, as the case may be, and the same shall be produced at the hearing, to be received or rejected as a matter of evidence as the board shall rule, subject to the restrictions contained in Chapter 22B-10, Section 9, D.C. Personnel Manual.
- b. The examination of these records shall be permitted by said applicant or his attorney or representative during the regular office hours of any day.
- c. Should said applicant not appear personally to make such examination, his attorney or representative must present a written auth-

orization from said applicant requesting permission to make said examination in his place and stead.

19. Examination of Disabled.

- a. Each annuitant retired for disability who resides within the Washington Metropolitan Area (the District of Columbia, the cities of Alexandria and Falls Church in Virginia, Montgomery and Prince George's Counties in Maryland, and Arlington and Fairfax Counties in Virginia) shall appear before the Board of Surgeons at least once every two years, until he shall have reached the age of 50 years, for a medical examination of the disability for which he was retired to determine his current physical and/or mental condition, unless excused from such examination by order of the Retirement Board. Notification for physical examination shall be by mail and posted at least thirty days in advance of the time and date of such examination. In instances where the selected date represents a hardship to the annuitant, it becomes his responsibility to contact the Retirement Board and arrange for an alternate examination date. The term hardship shall be construed as pertaining to serious emergency situations and incapacitation of the annuitant for medical reasons.
- b. Each year each retiree under age 50 receiving disability annuity payments shall file with the Retirement Board a notarized statement of employment on a form prescribed by the board. Each such retiree shall execute a release, on a form provided by the Board for that purpose, authorizing the board to obtain such retiree's federal income tax returns or information contained therein from the Internal Revenue Service.

The information thus received shall be kept confidential and shall only be used to determine the retiree's continued eligibility for disability annuity payments and shall not be redisseminated unless the retiree's prior written permission is received.

- c. Each such retiree shall return the forms, properly executed, within thirty days after receipt.
- d. In the event such a retiree fails to submit the documents required by this section, or, where the documents submitted raise a question of such retiree's continued eligibility for disability annuity payments, the board shall schedule a hearing on the matter as provided by these rules.
- e. In making the necessary determination with regard to the continuation of retirement eligibility of said annuitant for disability annuity payments, the Retirement Board shall consider the written opinion submitted to it by the Board of Surgeons concerning the annuitant's current physical and/or mental condition, together with any other pertinent records. The board shall provide each such annuitant with an opportunity to appear in person or by his duly authorized representative before the board. The annuitant's failure to appear at the time provided shall, in the absence of good cause shown, constitute a waiver of the right to appear.

20. Examination of Disabled Retirees Residing Outside the Washington Metropolitan Area.

- a. Each annuitant retired for disability who resides outside the Washington Metropolitan Area may, in lieu of

personally appearing before the board at least once in every two years, until he shall have reached the age of 50 years, present a statement of medical examination from a medical officer of any Federal, state or local government agency or any other licensed physician of the state in which he resides, unless excused from such examination by order of the Retirement Board. Such statement of medical examination must certify as to the annuitant's current physical and/or mental condition, with specific reference to the disability for which he was retired, and that the examining physician is not related by blood or marriage to the annuitant. Any expenses incurred in obtaining such statement will be borne by the annuitant. The annuitant shall have thirty days from the date the medical questionnaires are posted to return the completed forms to the board.

- b. In making the necessary determination with regard to the continuation of retirement eligibility of said annuitant for disability annuity payments, the Retirement Board shall consider the written opinion submitted to it by the Board of Surgeons concerning the annuitant's current physical and/or mental condition, as certified to by the examining physician, together with any other pertinent records. Normally, the annuitant will not be required to appear before the Retirement Board in person but may be so required at the board's discretion. If there is evidence the annuitant is not entitled to continued retirement disability benefits, then he shall be required to appear before the board. The expense incurred by such appearance will be borne by the annuitant.

- c. If said annuitant expresses a desire to do so, he may, at his own expense, personally appear before the Retirement Board.

21. Final Order.

- a. When a decision is reached as to disposition, the board members present shall indicate their decision by signing the report of action. Each vote is final unless there is a reconsideration of the case in executive session.
- b. A written decision with accompanying findings of fact and conclusions of law shall be prepared by the board. A copy of the said decision shall be served upon the member as provided in these rules.
- c. A formal order giving effect to the board's decision will be prepared by the appropriate secretary for signature by the chairman.
- d. Copies of the order will be distributed to the department, applicant, Accounting Officer, and other involved offices. The original of all orders issued by the board shall be retained by the D.C. Director of Personnel as the official record of the board's action.

22. Interim Order.

Upon proper application by the member showing that delay in entering a retirement order will adversely affect the member, the board may issue an interim order effecting a retirement. The said interim order shall not become final for purposes of a petition for reconsideration or an appeal until the written decision is issued by the board and served upon the member.

23. Petition for Reconsideration.

A petition for reconsideration, rehearing, or re-argument may be filed by a party within 15 days after the receipt of the decision. Neither the filing nor the granting of such petition shall operate as a stay of a final order unless specifically ordered by the board. Such stay will be granted only upon good cause which shall consist of unusual or exceptional circumstances.

24. Contents of Petition for Reconsideration.

The petition shall state briefly and specifically the matters of record alleged to have been erroneously decided, the ground relied upon, and the relief sought. If such petition is based in whole or in part on new matter, such matter shall be set forth in an affidavit and accompanied by a statement to the effect that the petitioner could not with due diligence have known or discovered such new matter prior to the date the case was presented to the board for decision.

25. Action on Reconsideration.

The board in its discretion may permit or require oral arguments upon a petition for reconsideration. Such petition shall be granted or denied by the board within 15 days after the filing of the petition.

26. Effective Date of Retirement.

The effective date of retirement shall in each instance be the first day of the month following the issuance of the final order by the Retirement Board.

27. Final Administrative Remedy.

The final action of the Retirement Board in cases coming before it shall constitute the final administrative action within the District of Columbia Government.

An appeal from such action may be taken to the District of Columbia Court of Appeals within such time periods as are specified in the rules of said court.

C. Revocation of Police Powers of Members
Appearing Before the Retirement Board.

1. It shall be the responsibility of each member of the department, who is on sick leave and awaiting a hearing before the Retirement Board, to take one of the following actions within 24 hours prior to appearing before such board for a hearing.

- a. Report to his assigned organizational element at which time his police powers shall be revoked.
- b. If the member's physical condition precludes his reporting to his assigned organizational element, arrange with his commanding officer to surrender his revolver, and have his police powers revoked at another location.

2. Such members shall appear before the board for a hearing in civilian clothes.

3. Upon receiving notification that retirement has been denied, the affected member shall, within 24 hours of receipt of the notification, report to his assigned organizational element where his police powers shall be restored and all items of property returned to him.

D. Retirement Condition and Benefits.

1. Retirement.

a. Optional.

- (1) Any member of the department who completes 20 years of police service may, after giving a least 60 days written advance notice to the Chief of Police, stating his intention to retire, voluntarily retire from the service and shall be entitled to an annuity computed at the rate of 2 1/2 percent of his basic salary at the

time of retirement for each year of service; except that the rate of 3 percent of his basic salary at time of retirement shall be used to compute each year's police service in excess of 20 years. No annuity granted shall exceed 80 percent of the basic salary of such member at the time of retirement.

- (2) When a copy of the request for retirement has been forwarded to the Board of Surgeons for the attention of the district physician concerned, the member shall be notified to appear for appropriate tests and examinations in order that a complete report may be submitted to the Board of Surgeons and subsequently to the Retirement Board.
- (3) The Board of Surgeons shall submit a report of its findings and recommendations to the Chief of Police or request additional time for study within 30 days after receipt of notification from the Chief of Police.
- (4) If the specific type of retirement is changed, the member of the force may request that the original application be withdrawn in view of the findings by the Board of Surgeons.
- (5) A member shall be entitled to at least 2 weeks notice in advance of the date his case will be presented to the Retirement Board, unless such notice is waived by him. Applicants for optional retirement are not required to appear personally before the board, but may do so if they so desire. They may also be required to appear personally at the discretion of the board.

b. Compulsory.

- (1) Any member of the department having reached the age of 60 years shall, in the discretion of the Mayor, be retired from the service and shall be entitled to receive an annuity as computed in the case of optional retirement.
- (2) Any member of the department having reached the age of 64 years shall be retired and be entitled to receive an annuity as computed in the case of optional retirement. Such members shall be required to submit a report to the Chief of Police 60 days prior to attaining the age of 64 years.

2. Disability Incurred While Performing Duty.

Any member who is injured or contracts a disease in the performance of duty or such injury or disease is aggravated by such duty any time after appointment, and such injury or disease or aggravation permanently disables him for the performance of duty, shall, upon retirement for such disability, receive an annuity computed at the rate of 2 1/2 percent of his basic salary at the time of retirement for each year or portion thereof of his service, provided that such annuity shall not exceed 70 percent of his basic salary at time of retirement, nor shall it be less than 66 2/3 percent.

3. Disability Not Incurred in Performance of Duty.

Whenever any member completes 5 years of police service and is found to have become disabled due to injury received or disease contracted other than in the performance of duty, which disability precludes further service in the department, such member shall be retired on an annuity computed

at the rate of 2 percent of his basic salary at the time of retirement for each year or portion thereof of his service, provided that the annuity of such member shall be at least 40 percent of his basic salary at time of retirement and shall not exceed 70 percent.

4. Involuntary Separation from Service.

If any member is injured or contracts a disease during his first 5 years of service in the police department which, in the judgement of the Board of Police and Fire Surgeons, disables him from performing further duty in the department, and if the Retirement Board finds that such injury or disease was not incurred in the performance of duty in the department, such member shall, upon the approval of such finding by the Chief of Police, and without regard for the provisions of any other law or regulation, be separated from the service.

5. Procedures for Retirement.

- a. An officer of the department having in his command, or a member of the Board of Surgeons having under his care, a member who, in his opinion, should be retired from the service shall so report to the Chief of Police.
- b. Upon receipt of a request or recommendation for retirement, or information indicating the desirability of such action, the Chief of Police shall cause the individual to appear before the Board of Surgeons for physical examination.
- c. The Board of Surgeons, upon receipt of such reference, shall examine the individual and submit a written report and recommendation to the Chief of Police, who shall thereupon forward to the Retirement Board for its consideration and action all papers in the case, including pertinent records.

- d. Members of the force shall be notified 2 weeks in advance to appear before the Retirement Board. Along with the notice the member will receive a Personal Data Questionnaire and a Payroll Data Form to be completed and returned to the Retirement Board secretary at least 2 days before the scheduled hearing.
 - e. If the member is claiming previous military or government service, photostatic copies of discharge and/or certification of government service must be submitted.
 - f. Potential retirees can obtain a retirement package, with a checklist of required forms, from the Retirement Board secretary who is located at the Police and Fire Clinic.
6. Creditable Service.
- a. Creditable service for the purpose of retirement shall include all police service and such military and government service as is authorized by Public Law 85-157 prior to the date of separation upon which the annuity is based.
 - (1) The term "police service" means all honorable service in the Metropolitan Police Department, United States Park Police, and Executive Protective Service.
 - (2) The term "military service" means honorable service in the armed services of the United States, but shall not include service in the National Guard except when ordered to active duty in the service of the United States.

- (3) The term "government service" means honorable active service in the various branches of the United States Government and the municipal government of the District of Columbia, and for which retirement deductions, other than social security deductions, were made.
- b. Before a member will be allowed credit for government service performed prior to appointment, he must deposit with the Collector of Taxes, D.C., a sum equal to the entire amount including interest, if any, refunded to him for such period of government service. (If he so elects, he may deposit the total amount of such refund in equal monthly payments not to exceed 24.)
 - c. The total service of a member shall be the full years and twelfth parts thereof, excluding from the aggregate any fractional part of a month.
 - d. A member who, during any war or national emergency as proclaimed by the President or declared by the Congress, has left or leaves his position to enter the military service shall not be considered for the purpose of this order as separated from his position by reason of such military service, unless he shall apply for and receive his salary deductions.

7. Reduced Annuity - Election.

- a. Any member retiring from the department may at the time of such retirement elect to receive a reduced annuity in lieu of the full annuity and designate in writing the person (limited to wife or child) to receive an increased annuity upon his death. Whenever such election

is made, the annuity payable to the member making such election shall be reduced by 10 percent; and upon his death, the annuity of the designee shall be increased by an amount equal to the amount by which the annuity of such retiring member was reduced.

- b. The increase in annuity payable to the designee shall be paid in addition to the annuity otherwise provided for and shall be subject to the same limitations as to duration and other conditions as the annuity otherwise paid.
- c. Such increase in annuity payable to the designee shall be reduced by 5 percent for each full 5 years the designee is younger than the retiring member, but such total reduction shall not exceed 40 percent.
- d. Such election must be made prior to the effective date of retirement, and may not be changed at a later date.

8. Payment of Annuities.

- a. Each annuity is stated as an annual amount, one-twelfth of which, fixed at the nearest dollar, accrues monthly and is payable on the first business day of the month after it accrues.
- b. Any person entitled to an annuity under this section may decline to accept all or any part of such annuity by a waiver signed and filed with the Mayor. Such waiver may be revoked in writing at any time, but no payment of the annuity waived shall be made covering the period which such waiver was in effect.

9. Recovery from Disability or Restoration to Earning Capacity.

a. If any annuitant, retired due to disability incurred or not incurred in performance of duty before reaching the age of 50, recovers from his disability or is restored to an earning capacity fairly comparable to the current rate of compensation of the position occupied at the time of retirement, payment of the annuity shall cease:

- (1) upon reemployment in the department from which he was retired; or
- (2) 1 year from the date of the medical examination showing such recovery; or
- (3) 1 year from the date of determination that he is so restored, if in each of 2 succeeding calendar years the income of the annuitant from wages or self-employment or both shall be equal to at least 80 percent of the current rate of compensation of the position occupied immediately prior to retirement.

Nothing in this paragraph shall preclude such member from having an annuity reestablished if his disability recurs or when his earning capacity is less than 80 percent of the rate of compensation of the position occupied immediately prior to retirement for any full year thereafter, provided that whenever any member is reinstated with his respective department it shall be at the same grade or rank held by the member at the time of his retirement.

- b. When an annuitant recovers prior to age 50 from a disabling condition for which he has been retired and applies for reinstatement in the department from which he was retired, he shall be reinstated in the same or nearest equivalent grade and salary available as that received at the time of his separation from the service, provided that such applicant meets the current entrance requirements of such department as to character.

10. Survivor Annuities.

- a. The term "child" means an unmarried child, including an adopted child and a stepchild or recognized natural child who lives with the member in a regular parent-child relationship, under the age of 18 years, or such unmarried child regardless of age who, because of physical or mental disability incurred before the age of 18, is incapable of self-support.
- b. The term "student-child" means an unmarried child who is a student between the ages 18 and 22 years, inclusive, and who is regularly pursuing a full-time course of study or training in residence or in a high school, technical or vocational institute, junior college, university, or comparable recognized educational institution.
- c. The surviving widow and/or child(ren) of a deceased member or the guardian of any minor children of a deceased member shall make application for annuity to the Chief of Police, who shall forward same, together with all pertinent data, to the Retirement Board, which will proceed in accordance with rules established by the Mayor for the government of the board.

- d. In order to be eligible for pension, the widow must have been married to the deceased at the time of his retirement or for at least 2 years immediately preceding his death or be the mother of issue by such marriage.
- e. In the event that any member dies in the performance of duty and such death determined by the Mayor to have been the sole and direct result of a personal injury sustained while performing such duty, leaving a survivor who received more than one-half of his support from a member, such survivor shall be entitled to receive a lump sum payment of \$50,000. If such member has more than one survivor, each survivor shall be entitled to receive an equal share of such lump-sum payment.
- f. In case of the death of any member before retirement or of any former member after retirement, leaving a widow or widower, such widow or widower shall be entitled to receive an annuity in the greater amount of 40 percent of such member's basic salary at the time of death; or 40 percent of the basis upon which the annuity, relief, or retirement compensation being received by such former member at the time of death was computed; or 40 percent of the corresponding salary for step 6, subclass (a), class 1 of the D.C. Police and Firemen's Salary Act salary schedule currently in effect at the time of such member or former member's death. However, such annuity shall not exceed the current rate of compensation of the position occupied by such member at the time of death or by such former member immediately prior to retirement.

- g. Each surviving child or student-child of any member who dies before retirement or of any former member who dies after retirement shall be entitled to receive an annuity equal to the smallest of 60 percent of the member's basic salary at the time of death or of the basis upon which the former member's annuity at the time of death was computed, divided by the number of eligible children; \$966; or \$2,988 divided by the number of eligible children, provided, that such member or former member is survived by a wife or husband. If such member or former member is not survived by a wife or husband, each surviving child or student-child shall be paid an annuity equal to the smallest of 75 percent of the member's basic salary at the time of his death or of the basis upon which the former member's annuity at the time of his death was computed, divided by the number of eligible children; \$1,200; or \$3,600 divided by the number of eligible children.
- h. Widow's benefits shall begin on the first day of the month in which the member or former member dies and shall terminate upon the survivor's death or remarriage before age 60, provided, that any annuity terminated by remarriage may be restored if such remarriage is later terminated by death, annulment, or divorce.
- i. Orphan's benefits shall begin on the first day of the month in which the member or former member dies and shall terminate upon attaining age 18, unless incapable of self-support; his becoming capable of self-support after age 18; his marriage; or his death.
- j. The annuity of any student-child shall begin on the first day of the month in which the member or former member dies,

and such annuity or any right thereto shall terminate upon his ceasing to be a student; his attaining the age 22; his marriage, or his death.

- k. Upon the death of the surviving wife or husband or termination of the annuity of a child, the annuity of any other child or children shall be recomputed and paid as though such wife, husband, or child had not survived the member or former member.
- l. Officers who are single, widow(ers), or divorced and have no children who are entitled to receive a pension under the above provisions should execute Form No. DC-200 (Designation of Beneficiary) for the payment of all deductions made in accordance with the Retirement Act. These forms, upon being executed, shall be delivered to the Office of Finance and Management, Payroll Unit.
- m. In the event an officer in this status fails to execute Form No. DC-200 and dies prior to retirement, leaving no widow(er) and/or children entitled to receive a pension, the District of Columbia will pay the deductions for retirement made from the salary of such deceased officer to the person or persons surviving at the time of death, in the following order of precedence:
 - (1) First, the descendants of deceased children by representation.
 - (2) Second, if there be none of the above, the parents of such member, or the survivor of them.
 - (3) Third, if there be none of the above, to the duly appointed legal representative of the estate of the de-

ceased member, or if there be none, to the person or persons determined to be entitled thereto under the laws of the domicile of the deceased member.

11. Cost of Living Increase.

Each month the Mayor shall determine the percent change in the price index. On the basis of this determination and effective the first day of the third month which begins after the price index shall have equaled the rise of at least 3 percent for 3 consecutive months over the price index for the base month, each annuity which has a commencing date not later than such effective date shall be increased by 1 percent plus the percent rise in the price index (calculated on the highest level of the price index during 3 consecutive months), adjusted to the nearest one--tenth of 1 percent.

12. General.

Public Law 85--157, as amended by Public Law 91-509, is not published in its entirety in this order. Those excerpts contained in this order which are of particular interest to members of this department are printed for their information and guidance.

PART II

A. Commanding Officer.

1. Notification to Retirees.

Commanding officers, upon receipt of notification that a member of their command is to appear before the Retirement Board, shall direct such member to familiarize himself with the contents of this order and complete and return the necessary forms.

2. Pre-Hearing Responsibilities.

It shall be the responsibility of the commanding officer of a member of the department who is on sick leave awaiting a hearing before the Retirement Board to take the

following action when notified that such member is to appear before the board for a hearing:

- a. Revoke the police powers of the affected member in accordance with the procedures contained in General Order No. 1202.4
- b. Arrange for the safekeeping of the member's property (service revolver, badge, cap plates, and identification card) until it is released to the Director, Property Division, or returned to the member.
- c. Advise the member that he is prohibited from carrying an off-duty revolver while in a revoked status.

3. Post Hearing Responsibilities.

Upon completion of the hearing by the Retirement Board, the member's commanding officer shall take one of the following actions:

- a. In the event the member is retired, the commanding officer, upon being notified of the retirement, shall transfer custody of the member's property to the Director, Property Division.
- b. In the event the member is not retired, his police powers shall be restored and his property returned to him prior to such member resuming his duties, unless otherwise specified by the Board of Surgeons.

B. Director, Internal Affairs Division.

The Director, Internal Affairs Division, shall:

1. Provide investigative staff to the board.


2. Establish, maintain, and evaluate such files and compile such reports and statistical data, relative to disabled retirees or applicants therefor, as may be directed by the Chief of Police

C. Inspector, Police and Fire Clinic Division.

The Inspector in charge of the Police and Fire Clinic shall:

1. Provide clerical assistance to the board.
2. Be responsible for seeing that reports and records are prepared and maintained in connection with meetings held, findings and recommendations made, and actions taken.

MJC:DMS:tsj


Maurice J. Cullinane
Chief of Police