

# **Exhibit A**

**UNITED STATES DISTRICT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

JENNIFER PANATTONI,	)	
	)	
Plaintiff,	)	Case No. 17-cv-6710
	)	
v.	)	Hon. Elaine E. Bucklo
	)	
VILLAGE OF FRANKFORT,	)	Magistrate Judge Sidney I. Schenkier
	)	
Defendant.	)	

**SECOND AMENDED COMPLAINT**

1. Plaintiff Jennifer Panattoni (“Officer Panattoni”) brings this action against the Village of Frankfort (the “Village” or “Defendant”) for violations of Title VII of the Civil Rights Act of 1964 (“Title VII”), 42 U.S.C. § 2000e *et seq.*, and the Illinois Human Rights Act (“IHRA”), 775 ILCS 5/1-101 *et seq.* In support of her Complaint, Officer Panattoni alleges and states the following:

**INTRODUCTION**

2. Jennifer Panattoni, one of the only female officers in the Frankfort Police Department (“FPD”), has served her community with distinction for more than 15 years. But when she became pregnant in late 2015 and sought to keep working, Defendant responded with persistent discrimination. It refused to provide her a uniform that would fit her changing body. It refused to provide her the properly-sized protective gear that would keep her safe while she continued patrolling the streets. It refused to allow her to carry some of her equipment in her pockets and vest to lessen the strain on her abdomen caused by her 25-pound duty belt. Despite allowing non-pregnant officers to take personal breaks while on duty without having to use benefit time, it refused to allow her to do the same. And when Officer Panattoni asked to modify

her job duties as her pregnancy progressed, Defendant refused, claiming that it would only grant modified-duty assignments to officers with on-the-job injuries. In retaliation for Officer Panattoni asserting her rights under federal and Illinois law, Defendant singled her out for disparate treatment, ranging from threats of unwarranted discipline to denials of the equipment she needed to do her job safely.

3. Ultimately, in March of 2016, Defendant forced Officer Panattoni off the job and onto leave simply because she was pregnant.

4. When Officer Panattoni informed Defendant in early 2018 that she was pregnant for a second time, Defendant continued its pattern of discrimination and retaliation. Defendant again refused to grant Officer Panattoni's request for a modified-duty assignment that would allow her to work safely throughout her pregnancy. Defendant demanded that Officer Panattoni either agree to take enforcement actions (such as arresting suspects) as part of a modified-duty assignment – potentially placing her pregnancy at risk, and obviating the purpose of the accommodation – or else accept an approximately 50 percent pay cut. Defendant did not impose such punitive conditions on non-pregnant officers who needed similar job modifications. For approximately three months, Defendant also denied Officer Panattoni the properly-sized body armor she needed to patrol safely, even though it demanded that she be available to perform enforcement actions during this time.

5. Despite Officer Panattoni's repeated efforts to engage Defendant in a dialogue about reasonable accommodations, and her identification of numerous possible assignments that would permit her to continue to work while pregnant, in May 2018 Defendant again forced her off the job and onto leave because she was pregnant.

### **JURISDICTION AND VENUE**

6. This Court has jurisdiction over this matter pursuant to 42 U.S.C. § 2000e-5(f)(3) and 28 U.S.C. § 1331, and should exercise its supplemental jurisdiction over Officer Panattoni's state law claims pursuant to 28 U.S.C. § 1367.

7. Declaratory relief is authorized by 28 U.S.C. §§ 2201 and 2202.

8. Venue is proper in this Court under 28 U.S.C. § 1391 because the parties reside in this District, and the unlawful practices complained of occurred within this District.

### **PARTIES**

9. Plaintiff Jennifer Panattoni is a resident of Manhattan, Illinois. She is a nonexempt employee of Defendant within the meaning of 42 U.S.C. § 2000e(f) and 775 ILCS 5/2-101(A). Since June 2003 and continuing through the present, Officer Panattoni has been employed as a full-time police officer in FPD, which is an organizational division of the Village.

10. Defendant Village of Frankfort is an incorporated village located in the southern suburbs of Chicago. The Village is a "person" within the meaning of 42 U.S.C. § 2000e(a), as well as an "employer" within the meaning of 42 U.S.C. § 2000e(b) and 775 ILCS 5/2-101(B).

### **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

11. On July 5, 2016, Officer Panattoni filed a timely charge of discrimination with the Equal Employment Opportunity Commission ("EEOC") regarding Defendant's conduct during her first pregnancy, alleging that Defendant engaged in sex (pregnancy) discrimination and retaliation. This charge was cross-filed with the Illinois Department of Human Rights ("IDHR"). On November 21, 2016, Officer Panattoni filed an amended charge, supplementing her allegations as to Defendant's unlawful conduct. On June 20, 2017, the EEOC issued a Notice of Right to Sue, attached as Exhibit 1. On October 2, 2017, the IDHR issued a Notice of Dismissal and Order of

Closure, attached as Exhibit 2. Officer Panattoni timely filed her complaint on September 18, 2017 and amended it on October 5, 2017 to reflect the IDHR's issuance of the Notice of Dismissal and Order of Closure.

12. On June 7, 2018, Officer Panattoni filed a timely charge of discrimination with the EEOC regarding Defendant's conduct during her second pregnancy, alleging that Defendant engaged in sex (pregnancy) discrimination and retaliation. The charge was cross-filed with the IDHR. On June 14, 2018, the EEOC issued a Notice of Right to Sue on this charge, attached as Exhibit 3. Officer Panattoni has forwarded the EEOC's Notice of Right to Sue to IDHR and requested that IDHR issue its finding, which request is pending.

#### **FACTS GIVING RISE TO THIS ACTION**

13. Defendant hired Officer Panattoni on or about June 26, 2003 as a full-time police officer. In 2010, FPD promoted her to Senior Patrol Officer.

14. Officer Panattoni has earned numerous awards and commendations in the 15 years that she has served the Village as a police officer.

15. As a Senior Patrol Officer, Officer Panattoni's duties include patrolling the Frankfort area in a marked squad car, engaging in community-building activities with residents, issuing traffic citations and warnings, responding to calls for service, investigating complaints of criminal and non-criminal activity, conducting crime prevention activities such as business inspections, providing traffic direction and control, and making arrests when necessary.

16. FPD requires officers working patrol shifts to wear a uniform, body armor, and a duty belt. Body armor is typically worn inside a fabric vest with external pockets (the "vest carrier"), which is then worn over the shirt. The body armor also can be worn under an officer's shirt. The duty belt is worn around the waist and weighs about 25 pounds when worn with all

required equipment, generally including an officer's gun, ammunition, Taser, pepper spray, handcuffs, baton, and radio. With permission from the Police Chief, a patrol officer may carry some of these required items in pockets on his or her vest carrier instead of carrying them on the duty belt.

17. As of September 2018, Officer Panattoni is one of only two female officers employed by FPD. Officer Panattoni is the only female officer at FPD who works full-time patrol shifts. FPD's command staff (the Police Chief and two Deputy Chiefs, who are the top supervisors at FPD) is entirely male.

18. In early 2014, Officer Panattoni began undergoing fertility treatments to assist her in becoming pregnant. During this period, she sought and was denied reasonable accommodations for her medical treatment.

19. In August 2014, believing she was experiencing pregnancy and disability discrimination, Officer Panattoni filed a charge of discrimination with the EEOC. She ultimately decided, however, not to pursue legal action at that time.

#### **Defendant's Policies and Practices Regarding Job Modification and Pregnant Officers**

20. At all relevant times, FPD maintained a Temporary Modified-Duty Assignments Policy (the "Modified-Duty Policy") allowing employees to request a temporary modified-duty assignment to accommodate "short-term injuries or illnesses." (January 19, 2015 Modified-Duty Policy, Exhibit 4, § 1054.4.; November 16, 2015 Modified-Duty Policy, Exhibit 5, § 1054.4).

21. Defendant's practice is to grant temporary modified-duty assignments to non-pregnant officers who have experienced an on-the-job injury requiring accommodation.

22. On information and belief, Defendant does not limit its assignments of temporary modified-duty and non-patrol tasks to police officers injured on the job, and has also assigned such tasks to non-pregnant officers simply in order to accommodate their personal preferences.

23. At all relevant times, FPD's Modified-Duty Policy included a pregnancy notice provision that required "[p]regnant employees [to] notify their immediate supervisors as soon as practicable and provide a statement from their medical providers identifying any pregnancy-related job restrictions or limitations." (Exhibit 4, § 1054.7.1; Exhibit 5, § 1054.7.1.).

24. However, contrary to Illinois law, at all relevant times, FPD's policy manual failed to notify employees of their right to seek and be granted an array of possible reasonable accommodations for pregnancy, childbirth, and related conditions, other than light duty or leave. And, in 2015, when it amended FPD's Modified Duty Policy, Defendant not only failed to correct this compliance defect, it also deleted any reference to Illinois' pregnancy accommodations statute, 775 ILCS 5/2-102, or to FPD's obligation to provide pregnant employees with modified-duty assignments upon request if such requests could be reasonably accommodated. (Exhibit 5, § 1054.7.).

25. On information and belief, Defendant has granted temporary modified-duty assignments to non-pregnant officers without requiring them to take a pay cut or perform enforcement actions, but has never done so as an accommodation for pregnant officers.

**Defendant's Refusal to Consider Reasonable Accommodations for  
Officer Panattoni's 2016 Pregnancy**

26. Pursuant to FPD's policy, on or about January 8, 2016, Officer Panattoni informed Police Chief John Burica ("Chief Burica") that she was pregnant. She informed him that her doctor had not imposed any restrictions on her ability to continue her patrol duties, and provided a doctor's note to that effect. She also told him that she anticipated that, as her pregnancy progressed, she would likely require accommodations, such as modification of her job duties, to continue working, and attempted to initiate a dialogue about such accommodations.

27. Chief Burica refused to discuss accommodations. He told Officer Panattoni that modified-duty assignments were only available to officers injured on the job. He explained that he did not want to “set a precedent” by extending “light duty” to a pregnant officer, and that he only had to treat Officer Panattoni like “someone with a broken leg” whose injury occurred during off-duty hours. He told Officer Panattoni that if she could not perform her job duties without any changes, she would have to go on leave.

**Defendant’s Denial of Reasonable Accommodations  
During Officer Panattoni’s 2016 Pregnancy**

28. Over the next two months, Officer Panattoni and her union representative, Roy Carlson (“Carlson”), attempted to negotiate with Defendant for a temporary modification of Officer Panattoni’s duties during her pregnancy. Defendant rejected their proposals. Chief Burica consistently maintained that, because Officer Panattoni was pregnant, FPD had no obligation to allow her to perform available modified-duty or non-patrol tasks as it would for an officer who was injured on the job.

29. During this period, Officer Panattoni identified for Chief Burica numerous available non-patrol tasks that she could perform within FPD, such as recordkeeping, recording “walk-in” complaints from members of the public, conducting witness interviews, assisting in follow-up investigations, performing clerical tasks, and assisting in crime prevention outreach. Defendant rejected these proposals and consistently rebuffed Officer Panattoni’s efforts to discuss the availability of such tasks.

30. Officer Panattoni and Carlson further proposed that Defendant could accommodate Officer Panattoni’s request for modified duty with a temporary assignment outside the FPD, such as performing administrative work at the Village Hall. Defendant rejected that request as well, claiming it posed an unspecified conflict with FPD’s policies on light duty.



**Defendant's Additional Failures to Accommodate  
Officer Panattoni's 2016 Pregnancy**

31. In addition to refusing to engage in a good faith, interactive process concerning whether temporary job modifications might be available to Officer Panattoni, Defendant further refused to provide Officer Panattoni with the clothing and gear needed to continue performing her patrol duties safely as her pregnancy progressed.

32. Defendant repeatedly refused Officer Panattoni's requests for a maternity uniform that would accommodate her changing body, and ultimately only provided her with two ill-fitting men's shirts and one pair of non-maternity pants. Officer Panattoni was charged with finding her own suspenders to keep the pants from falling down.

33. On information and belief, Defendant did not refuse or delay in processing similar requests for uniforms when made by non-pregnant officers.

34. Defendant also refused Officer Panattoni's requests for extenders to enable her to comfortably wear her body armor. Without extenders to fit her body armor and vest carrier over her shirt or adequately-sized shirts to fit her body armor underneath, Officer Panattoni was forced to continue wearing body armor that exerted continual pressure on her abdomen, made it difficult for her to breathe, and led to the vest carrier regularly popping open with any exertion or sudden movement.

35. On information and belief, Defendant did not refuse similar requests for body armor or equipment when made by non-pregnant officers.

36. Defendant also denied Officer Panattoni's requests for permission to carry her equipment, such as pepper spray, radio, and Taser, in pockets on her vest carrier in order to relieve the painful pressure that her 25-pound duty belt exerted on her growing abdomen.

37. On information and belief, Defendant has granted non-pregnant officers permission to remove equipment from their duty belts and to store such equipment in pockets on their vest carriers.

38. Additionally, after Officer Panattoni disclosed her pregnancy to Chief Burica, Defendant withdrew permission to make up time outside of her regular shift to attend pregnancy-related doctor's appointments, and instead required her to use accrued sick leave or other benefit time.

39. On information and belief, Defendant regularly permitted non-pregnant officers – including Officer Panattoni herself, prior to her pregnancy – to take personal breaks from duty of up to 60 minutes without having to use accrued sick leave or other benefit time.

**Defendant's Forcing Officer Panattoni to Take an Involuntary Leave of Absence  
During Her 2016 Pregnancy**

40. On or about March 17, 2016, when Officer Panattoni was approximately 5 months pregnant, she gave Chief Burica a new doctor's note. The note stated that she should not continue to wear her 25-pound duty belt and recommended that she avoid physical altercations. The note also recommended that Officer Panattoni "perform light duty/clerical work" until the end of her pregnancy.

41. Chief Burica told Officer Panattoni that the doctor's note meant she no longer could work as a patrol officer, and that, because she had not been injured on the job, Defendant immediately would place her on leave.

42. Fearing that taking leave so early would result in her running out of accrued paid benefit time – and possibly losing her job – before giving birth, Officer Panattoni told Chief Burica that she remained willing and able to continue working patrol, including wearing her duty

belt. Chief Burica refused, stating that he could not allow Officer Panattoni to continue working “now that a doctor had placed restrictions on [her],” or words to that effect.

43. Within approximately a month of being placed on involuntary leave, Officer Panattoni exhausted her accrued paid benefit time and was removed from Defendant’s payroll.

44. In order to avoid loss of all income during the remainder of her pregnancy and recovery from childbirth, Officer Panattoni applied to Defendant’s Police Pension Board to draw disability pension benefits.

45. Based on Defendant’s refusal to allow Officer Panattoni to continue working in a modified capacity while she was pregnant, Defendant’s Police Pension Board authorized her receipt of disability pension benefits, which amounted to only half of her base salary.

46. During Officer Panattoni’s involuntary leave, Defendant did not allow her to attend accident reconstruction training classes for which she previously had been approved and which would have made her eligible for enhanced pay, even though the duties required for such training were consistent with her doctor’s recommendations and she was willing and able to attend the training while pregnant.

47. During her roughly 7-month leave, Officer Panattoni also lost creditable service time for her police pension and was unable to accrue any benefit time.

48. Officer Panattoni gave birth on August 6, 2016 and returned to work on October 17, 2016.

49. During Officer Panattoni’s involuntary leave, FPD reassigned a part-time patrol officer, Officer Teri O’Donnell (“Officer O’Donnell”), to a “hybrid” role performing many non-patrol duties of the kind that Officer Panattoni previously had proposed as an accommodation during her pregnancy. These duties included maintaining records, attending community events, assisting with detective work, and assisting with crime prevention. On information and belief,

Officer O'Donnell was not pregnant and Defendant assigned her these non-patrol duties to accommodate her personal preference to perform such tasks instead of patrol duties.

**Defendant's Discriminatory Refusal to Hire Officer Panattoni for  
Other FPD Positions and Retaliation**

50. Before Defendant forced her onto involuntary leave in March 2016, Officer Panattoni had applied within FPD for a vacant Drug Abuse Resistance Education (DARE) officer position. Although Officer Panattoni was qualified for the position, and Defendant told her that she had interviewed well, in June 2016, while Officer Panattoni was on involuntary leave, Defendant selected a male officer with less seniority for the DARE officer job.

51. Since Officer Panattoni's return to work in October 2016, Defendant has subjected her to a pattern of disparate treatment, including, but not limited to, singling her out for unwarranted scrutiny and threatened discipline, depriving her of uniforms and equipment needed to do her job effectively, and denying her requested training opportunities. Defendant also made improper inquiries into whether Officer Panattoni was again undergoing fertility treatments.

52. In addition, in April 2017, Defendant denied Officer Panattoni's husband, Sergeant Joel Panattoni, a promotion to Deputy Chief, in favor of a less senior candidate.

53. In August 2017, after Officer Panattoni informed Defendant she was undergoing fertility treatments in order to have a second child, Defendant denied Officer Panattoni a promotion to Detective, instead selecting a male officer with less seniority. Defendant also threatened Officer Panattoni with removal from duty as an evidence technician, a role that comes with a stipend, after she requested assistance to avoid excessive exposure to fingerprint dust, a substance contraindicated for women attempting to become pregnant.

**Defendant's Discriminatory and Retaliatory Failure to Accommodate  
Officer Panattoni's 2018 Pregnancy**

54. On January 24, 2018, a little over 5 months after she initiated this action, Officer Panattoni notified Defendant through an email from her counsel that she was expecting her second child, and that she was approximately 8 weeks pregnant with an estimated due date of August 31, 2018. She informed Defendant that she was capable of continuing to work full-time, and sought to initiate a timely, good faith, and meaningful exchange to identify reasonable accommodations that would allow her to work through her pregnancy.

55. In the January 24, 2018 email, Officer Panattoni asked for reassignment or modification of her job duties in order to reduce the risk of physical trauma. She identified a possible vacant assignment (the Crime Prevention Officer position) that would accommodate her pregnancy. She also identified various alternative duties that she could perform as part of a modified-duty assignment.

56. At Defendant's request, on January 29, 2018, Officer Panattoni provided a letter from her physician that stated that she had a healthy pregnancy and could continue to work full-time. This letter advised modified-duty work to reduce the risk of physical trauma that could harm the pregnancy, and gave examples of more than a dozen non-enforcement duties typical for a patrol officer that would be safe and appropriate.

57. On February 8, 2018, Defendant denied Officer Panattoni's request for accommodations through an email sent by Defendant's attorney. In this email, Defendant stated that FPD would not reassign Officer Panattoni or modify her duties. Defendant put forward two options for Officer Panattoni: (a) go on leave or (b) continue to work full-time as a patrol officer without any modification of her job duties.

58. As to option (a), going on leave so early would exhaust Officer Panattoni's accrued paid benefit time well before her August due date. Upon exhausting such paid time, Officer Panattoni would be without a paycheck for the remainder of her pregnancy and throughout her period of recovery from childbirth.

59. As to option (b), continuing to work full-time as a patrol officer without any modification of job duties, which included having to arrest suspects or take other enforcement actions, would create a direct risk of physical trauma – thus defeating the purpose of Officer Panattoni's requested accommodation.

60. Accordingly, Officer Panattoni again attempted through counsel to engage Defendant in discussing potential accommodations. She offered a variety of options for duties she could perform while pregnant, including identifying two vacant positions that were consistent with her needs.

61. In response, Defendant acknowledged that the duties Officer Panattoni sought to perform were available, but maintained that FPD would only assign such modified duties to her on one of two conditions: (a) she would have to accept a nearly 50 percent pay cut (from approximately \$43 to \$23 per hour), or (b) she would have to agree that at any moment during her scheduled shifts, FPD could demand that she perform enforcement actions.

62. By demanding that she accept a significant pay cut in order to obtain a temporary modified-duty assignment for the duration of her pregnancy, Defendant treated Officer Panattoni less favorably than other similarly-situated employees based on her pregnancy. On information and belief, Defendant has not cut the pay of non-pregnant FPD officers who have been granted temporary modified-duty assignments.

63. By demanding that she agree to take enforcement actions (such as arresting suspects) as part of any temporary modified-duty assignment for the duration of her pregnancy,

Defendant treated Officer Panattoni less favorably than other similarly-situated employees based on her pregnancy. On information and belief, Defendant has not required non-pregnant FPD officers who have been granted temporary modified-duty assignments for on-the-job injury to agree to arrest suspects or otherwise take enforcement actions.

**Defendant's Denials of Appropriate Body Armor and Uniforms  
During Officer Panattoni's 2018 Pregnancy**

64. Defendant also failed to provide Officer Panattoni with body armor that would adequately protect her when performing her job duties during her 2018 pregnancy.

65. FPD's policy requires officers to wear body armor whenever performing duties in which they could reasonably be expected to take enforcement actions. Over the course of approximately three months after Officer Panattoni notified Defendant of her pregnancy, Defendant denied her adequately protective body armor while also demanding that she be available to perform enforcement actions.

66. Initially, Officer Panattoni was forced to perform patrol duties while wearing body armor that did not fit or adequately protect her; later, to avoid engaging in enforcement actions wearing ill-fitting body armor that did not adequately protect her, she was forced to stay home and draw on her benefit time instead of working.

67. On January 26, 2018, Officer Panattoni informed Chief Burica and Deputy Chief Kevin Keegan ("Deputy Chief Keegan"), who is in charge of uniform and equipment requests for the FPD, that she needed uniforms in a larger size. She also stated that she had concerns about whether her body armor needed to be replaced as a result of her body's changes during pregnancy.

68. In a February 8, 2018 email from Defendant's counsel, Defendant acknowledged having received Officer Panattoni's request regarding re-sized body armor and uniforms, and claimed it was working to address those needs.

69. However, in January and February 2018, Deputy Chief Keegan's only response to Officer Panattoni's request regarding re-sized body armor was to instruct her to contact the vendor and manufacturer herself to figure out if her body armor still fit or needed to be replaced. He also advised her that her body armor was not scheduled to be replaced until December 2020. During this time period, Defendant also subjected Officer Panattoni to delays in ordering or obtaining uniforms in larger sizes as needed to accommodate her pregnancy.

70. In January and February 2018, Officer Panattoni made inquiries to the vendor and manufacturer of her body armor as directed by Deputy Chief Keegan. She contacted the vendor, Ray O'Herron Co., which provided her with a measurement sheet stating her weight and measurements as of July 2015, when FPD had last replaced her body armor. Officer Panattoni's measurements had changed substantially since that time as a result of her pregnancy, but the vendor did not offer any information about how a change in measurements would affect the fit of her body armor. Officer Panattoni also contacted the body armor manufacturer, Point Blank Enterprises, and spoke with a customer service representative who stated that Point Blank did not make body armor in maternity sizes, and that the wearer would know when her body armor needed to be replaced because it would become uncomfortable to wear. Officer Panattoni also made repeated inquiries to Point Blank to ask about the safety of wearing body armor during pregnancy, but never received a response.

71. Officer Panattoni also performed her own research on the proper fit of body armor. As a result of this research, in February 2018 Officer Panattoni learned of a self-assessment checklist published by the Justice Technology Information Center (JTIC) – a



program of the National Institute of Justice, Office of Justice Programs, U.S. Department of Justice – to assist law enforcement officers in determining how well their body armor fits.

72. After completing the JTIC self-assessment, Officer Panattoni observed multiple problems with the fit of her body armor, including a 1-inch gap on the sides (leaving portions of her torso without adequate protection) and pinching when she sat (interfering with her movement). According to the assessment, such deficiencies “may be an indication that your armor has not been properly fitted for you and should be brought to the attention of your supervisor.” [https://www.justnet.org/pdf/00-BA-Assessment-Handout\\_laser%2007082016.pdf](https://www.justnet.org/pdf/00-BA-Assessment-Handout_laser%2007082016.pdf).

73. On March 1, 2018, Officer Panattoni wrote to Defendant specifying the problems she had identified with the fit of her body armor as a result of her pregnancy, and attaching her JTIC self-assessment documenting these issues. Officer Panattoni requested a fit assessment for her current body armor and that she be fitted for new body armor.

74. On the afternoon of March 5, 2018, Deputy Chief Keegan emailed Officer Panattoni with information about FPD dealers that could conduct a body armor fitting.

75. On March 6, 2018, Officer Panattoni visited the Cop Fire Shop, an FPD dealer in Tinley Park, Illinois. A Cop Fire Shop employee confirmed that Officer Panattoni’s body armor was too small, and took her measurements to order her new body armor. The employee estimated that it would take anywhere from 4 to 8 weeks for the new, properly-sized body armor to arrive.

76. Even though Officer Panattoni did not have body armor that provided adequate protection, Defendant continued to demand that she remain available to take enforcement actions while pregnant.

77. Notwithstanding the Cop Fire Shop assessment of Officer Panattoni’s body armor, Defendant insisted that Officer Panattoni’s current body armor should still fit and adequately protect her. As an alternative, however, Defendant offered that Officer Panattoni

could wear body armor that it had on hand that it previously had ordered for two male officers, both of whom are significantly taller and heavier than Officer Panattoni.

78. Officer Panattoni informed Defendant, through counsel, that neither her body armor, nor the body armor of the two male police officers that Defendant had provided her, fit appropriately to protect her and attached photographs that demonstrated that none of them fit.

79. In response, Defendant demanded that Officer Panattoni perform an in-person demonstration, with a Deputy Chief present, regarding the fit of her body armor and that of the two male officers that Defendants had provided her.

80. Officer Panattoni complied, again visiting the Cop Fire Shop on April 14, 2018, this time accompanied by Deputy Chief Keegan.

81. During this visit, Officer Panattoni tried on all of the body armor with Deputy Chief Keegan present. The Cop Fire Shop employee confirmed that there was no way for Officer Panattoni to comfortably or safely wear any of the body armor, in any combination. The employee informed Deputy Chief Keegan that wearing any of this body armor would rub Officer Panattoni's chest raw.

82. Officer Panattoni experienced humiliation, shame, and emotional distress as a result of having to perform this in-person demonstration, which included informing Deputy Chief Keegan about her breast size and weight gain during pregnancy. Moreover, this humiliating experience was entirely unnecessary because Officer Panattoni already had submitted documentation (including photographs) to show that the body armor provided by FPD did not fit her.

83. Even though Officer Panattoni had shown that the body armor Defendant had provided did not fit and would not protect her, Defendant continued to insist that Officer Panattoni be available to perform enforcement actions if she was going to continue to work at

full pay. Because Defendant refused to provide Officer Panattoni with properly fitting body armor that would provide her with adequate protection during an enforcement action, Officer Panattoni was forced to use her accrued benefit time on at least 7 separate occasions instead of working patrol shifts.

**Defendant's Denials of an Assignment Schedule for Modified-Duty Work  
During Officer Panattoni's 2018 Pregnancy**

84. As her pregnancy progressed, Officer Panattoni repeatedly sought to identify possible accommodations that would allow her to work without requiring her to take a pay cut or perform enforcement actions. Through her attorneys, Officer Panattoni proposed several clerical or modified-duty projects at the FPD police station that she knew were available and that would allow her to work at the police station in a similar capacity to other, non-pregnant officers who had been granted temporary modified-duty assignments in the past.

85. In response to her repeated requests for clerical or modified-duty work at the station, Defendant allowed Officer Panattoni to perform, on a day-by-day basis, certain short-term projects that she had identified (such as scanning files) and also allowed her to fill in on an occasional basis for FPD secretaries who were out of the office. On those days when Defendant allowed Officer Panattoni to come to work, it also allowed her to perform additional tasks that FPD routinely needed an officer to perform at the station, such as taking walk-in complaints from members of the public.

86. However, Defendant refused to provide Officer Panattoni with a regular schedule for station work, instead forcing her to confirm on a day-by-day basis whether FPD anticipated that there would be enough work to keep her busy at the station the next day. If Defendant deemed insufficient station work available, it required that Officer Panattoni use her accrued leave time to cover those hours instead.

87. At the same time, while knowing that Officer Panattoni would not accept patrol shifts that required her to perform enforcement actions, Defendant continued to schedule Officer Panattoni for 12-hour patrol shifts. It further demanded that, prior to each of those scheduled shifts, Officer Panattoni call the supervising sergeant and report that she would not be working that patrol shift.

88. In addition to creating additional uncertainty for Officer Panattoni, this daily exercise required the supervising sergeant to call another officer in to fill the vacant patrol shift, thus creating confusion and schedule disruptions for the entire department.

89. The uncertainty of not knowing whether and when she would report for work, or how many hours of leave she would have to use each week, caused Officer Panattoni significant stress, anxiety, and hardship, including difficulty securing appropriate care for her toddler son.

90. On information and belief, Defendant did not subject non-pregnant FPD officers to this uncertainty when temporarily reassigning them to modified duty due to on-the-job injuries. Rather, such officers were assigned to a full-time schedule of station work, taking walk-in complaints and performing other tasks, without having to check in daily to learn if they would be permitted to work the next day.

91. Also on information and belief, Defendant did not assign officers injured on the job to regular 12-hour patrol shifts that would require them to perform enforcement actions. Rather, Defendant simply removed those officers from the patrol schedule for the duration of their physical impairment.

**Defendant's Forcing Officer Panattoni to Take an Involuntary Leave of Absence  
During Her 2018 Pregnancy**

92. In May 2018, Officer Panattoni informed Defendant through counsel that she was rapidly exhausting her accrued benefit time as a result of Defendant's refusals to accommodate

her pregnancy. Through her attorneys, Officer Panattoni again identified work that she could perform at the station through the remainder of her pregnancy, and asked for a set schedule.

93. In response to Officer Panattoni's requests for a schedule, Defendant's counsel proposed on May 18, 2018 that she could work exactly two days (May 23 and May 25) over the next month.

94. Officer Panattoni exhausted all her accrued benefit time on or around June 11, 2018. At that point, she was removed from Defendant's payroll and was placed on unpaid leave.

95. Officer Panattoni gave birth to a daughter on August 29, 2018.

**FIRST CAUSE OF ACTION**  
**Title VII, 42 U.S.C. §§ 2000e-2(a), 2000e(k)**  
**Disparate Treatment Because of Sex (Pregnancy)**

96. Officer Panattoni realleges and incorporates by reference, as if fully set forth herein, each and every allegation of this Complaint.

97. Defendant discriminated against Officer Panattoni based on her sex, and because of her pregnancy, in violation of Title VII of the Civil Rights Act of 1964, as amended by the Pregnancy Discrimination Act, by refusing to reasonably accommodate her pregnancies on the same terms as it accommodates other, non-pregnant workers who are similar in their ability or inability to work, and instead forcing her onto leave.

98. Defendant's purported reasons for refusing to accommodate Officer Panattoni are a pretext for sex discrimination.

99. Defendant's refusal to accommodate Officer Panattoni during her pregnancies imposed a significant burden on her, and Defendant's purported reasons for its refusal are not sufficiently strong to justify that burden.

100. Defendant discriminated against Officer Panattoni based on her sex, and because of her pregnancy, by denying her the DARE officer position in favor of a less senior male

applicant who was not pregnant. Defendant's purported reasons for this decision are a pretext for sex discrimination.

101. As a result of Defendant's unlawful sex discrimination, Officer Panattoni suffered significant monetary loss, including loss of earnings and other benefits.

102. As a result of Defendant's unlawful sex discrimination, Officer Panattoni suffered emotional pain, suffering, and other nonpecuniary losses.

**SECOND CAUSE OF ACTION**  
**Title VII, 42 U.S.C. §§ 2000e-2(a), 2000e(k)**  
**Disparate Impact Because of Sex (Pregnancy)**

103. Officer Panattoni realleges and incorporates by reference, as if fully set forth herein, each and every allegation of this Complaint.

104. Defendant discriminated against Officer Panattoni based on her sex and pregnancy because its policy of limiting modified-duty assignments to workers injured on the job has a disparate impact on pregnant officers, in violation of Title VII of the Civil Rights Act of 1964, as amended by the Pregnancy Discrimination Act.

105. Defendant's policy guarantees that any officer who becomes pregnant and requires job modifications to continue working will be forced to go on leave.

106. Defendant's policy of limiting modified-duty assignments to officers injured on the job and/or providing modified-duty assignments to pregnant officers on unequal terms cannot be justified by business necessity.

107. As a result of Defendant's unlawful sex discrimination, Officer Panattoni suffered significant monetary loss, including loss of earnings and other benefits.

**THIRD CAUSE OF ACTION**  
**Title VII, 42 U.S.C. §§ 2000e-3(a), 2000e(k)**  
**Retaliation**

108. Officer Panattoni realleges and incorporates by reference, as if fully set forth herein, each and every allegation of this Complaint.

109. Defendant retaliated against Officer Panattoni, in violation of Title VII of the Civil Rights Act of 1964, because she engaged in protected activity, including but not limited to filing charges of discrimination with the EEOC and IDHR and initiating this action in federal court.

110. Defendant's adverse actions would be likely to dissuade a reasonable employee from making or supporting a charge of discrimination.

111. As a result of Defendant's unlawful retaliation, Officer Panattoni suffered significant monetary loss, including loss of earnings and other benefits.

112. As a result of Defendant's unlawful retaliation, Officer Panattoni suffered emotional pain, suffering, and other nonpecuniary losses.

**FOURTH CAUSE OF ACTION**  
**IHRA, 775 ILCS 5/2-102**  
**Failure to Provide Reasonable Accommodations for Pregnancy**

113. Officer Panattoni realleges and incorporates by reference, as if fully set forth herein, each and every allegation of this Complaint.

114. Defendant failed to make reasonable accommodations for Officer Panattoni's pregnancy, childbirth, or medical or common conditions related to pregnancy or childbirth, in violation of the IHRA, 775 ILCS 5/2-102(J), including but not limited to requiring her to take leave even though another reasonable accommodation could have been provided.

115. Defendant denied Officer Panattoni reasonable accommodations even though Defendant granted similar accommodations to non-pregnant employees, and it would not have imposed an undue hardship on Defendant to grant such accommodations to Officer Panattoni.

116. As a result of Defendant's unlawful conduct, Officer Panattoni suffered significant monetary loss, including loss of earnings and other benefits.

117. As a result of Defendant's unlawful conduct, Officer Panattoni suffered emotional pain, suffering, and other nonpecuniary losses.

**FIFTH CAUSE OF ACTION**  
**IHRA, 775 ILCS 5/2-102**  
**Disparate Treatment Because of Pregnancy**

118. Officer Panattoni realleges and incorporates by reference, as if fully set forth herein, each and every allegation of this Complaint.

119. Defendant discriminated against Officer Panattoni based on her pregnancy, childbirth, or medical or common condition related to pregnancy or childbirth, in violation of the IHRA, which provides that pregnant workers "shall be treated the same for all employment-related purposes . . . as other persons not so affected but similar in their ability or inability to work, regardless of the source of the inability to work ...." 775 ILCS 5/2-102(I).

120. As a result of Defendant's unlawful pregnancy discrimination, Officer Panattoni suffered significant monetary loss, including loss of earnings and other benefits.

121. As a result of Defendant's unlawful pregnancy discrimination, Officer Panattoni suffered emotional pain, suffering, and other nonpecuniary losses.

**SIXTH CAUSE OF ACTION**  
**IHRA, 775 ILCS 5/2-102**  
**Disparate Impact Because of Pregnancy**

122. Officer Panattoni realleges and incorporates by reference, as if fully set forth herein, each and every allegation of this Complaint.



123. Defendant discriminated against Officer Panattoni based on her pregnancy, childbirth, or medical or common condition related to pregnancy or childbirth, in violation of the IHRA, 775 ILCS 5/2-102, because its policy of limiting modified-duty assignments for workers injured on the job has a disparate impact on pregnant officers.

124. Defendant's policy guarantees that any officer who becomes pregnant and requires job modifications to continue working will be forced to go on leave.

125. Defendant's policy of limiting modified-duty assignments to officers injured on the job and/or providing modified-duty assignments to pregnant officers on unequal terms cannot be justified by business necessity.

126. As a result of Defendant's unlawful pregnancy discrimination, Officer Panattoni suffered significant monetary loss, including loss of earnings and other benefits.

**SEVENTH CAUSE OF ACTION**  
**IHRA, 775 ILCS 5/6-101(A)**  
**Retaliation**

127. Officer Panattoni realleges and incorporates by reference, as if fully set forth herein, each and every allegation of this Complaint.

128. Defendant retaliated against Officer Panattoni, in violation of the IHRA, 775 ILCS 5/6-101(A), because she engaged in protected activity, including but not limited to filing charges of discrimination with the EEOC and IDHR and initiating this action in federal court.

129. As a result of Defendant's unlawful retaliation, Officer Panattoni suffered significant monetary loss, including loss of earnings and other benefits.

130. As a result of Defendant's unlawful retaliation, Officer Panattoni suffered emotional pain, suffering, and other nonpecuniary losses.

**PRAYER FOR RELIEF**

For the foregoing reasons, Officer Panattoni respectfully requests that this Court grant the following relief:

- A. Declaratory relief, including but not limited to a declaration that Defendant violated Title VII and the IHRA;
- B. Injunctive relief, including but not limited to revision of Defendant's policies with respect to accommodating pregnancy, childbirth, and related conditions, so that they comply with Title VII and the IHRA;
- C. Compensation for loss of income and benefits;
- D. Compensatory damages, including for emotional distress;
- E. Pre-judgment and post-judgment interest at the highest lawful rate;
- F. Costs incurred, including reasonable attorneys' fees to the extent allowable by law; and
- G. Such other relief as the Court deems just and proper.

**JURY DEMAND**

Officer Panattoni demands a jury trial on the matters alleged herein.

Dated: September 11, 2018

Respectfully submitted,

/s/ Jessica L. Staiger  
*Counsel for the plaintiff*

Lorie A. Chaiten  
Amy P. Meek  
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(312) 201-9740  
lchaiten@aclu-il.org  
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Women's Rights Project  
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# **Exhibit 1**

## U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

## DISMISSAL AND NOTICE OF RIGHTS

To: Jennifer Panattoni  
c/o Gillian Thomas  
Senior Staff Attorney  
American Civil Liberties Union  
125 Broad Street  
New York, NY 10004

From: Chicago District Office  
500 West Madison St  
Suite 2000  
Chicago, IL 60661

On behalf of person(s) aggrieved whose identity is  
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.	EEOC Representative	Telephone No.
AMENDED 440-2016-04870	Ana Alza, Investigator	(312) 869-8038

## THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:

The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.

Your allegations did not involve a disability as defined by the Americans With Disabilities Act.

The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.

Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge

The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.

The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.

Other (briefly state)

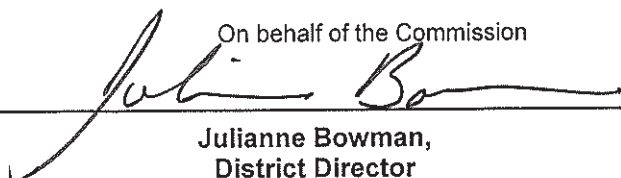
## - NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

**Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act:** This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit **must be filed WITHIN 90 DAYS of your receipt of this notice**; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

**Equal Pay Act (EPA):** EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission

  
Julianne Bowman,  
District Director

6/20/17

(Date Mailed)

Enclosures(s)

cc: VILLAGE OF FRANKFORT  
c/o Amy Moor Gaylord, Esq.  
FRANCZEK RADELET P.C.  
300 S. Wacker Drive Suite 3400  
Chicago, IL 60606

# **Exhibit 2**

STATE OF ILLINOIS  
DEPARTMENT OF HUMAN RIGHTS

IN THE MATTER OF:	)	
	)	
JENNIFER PANATTONI,	)	
	)	
COMPLAINANT,	)	
	)	
AND	)	CHARGE NO. 2017CR3183
	)	
VILLAGE OF FRANKFORT,	)	
	)	
RESPONDENT.	)	

**NOTICE OF DISMISSAL FOR LACK OF SUBSTANTIAL EVIDENCE  
AND ORDER OF CLOSURE**

Amy Meek  
ACLU of Illinois  
150 N. Michigan Ave.  
Suite 600  
Chicago, IL 60601

Amy Moor Gaylord  
Franczek Radelet, P.C.,  
300 S. Wacker Drive  
Suite 3400  
Chicago, IL 60606

DATE OF DISMISSAL: October 2, 2017

1. YOU ARE HEREBY NOTIFIED that the Department has not received a timely request to review the EEOC determination of no cause, a copy of which is enclosed. Based upon the enclosed determination, the DEPARTMENT OF HUMAN RIGHTS (DHR) finds that there is NOT substantial evidence to support the allegations of the charge(s). Accordingly, pursuant to Section 7A-102(A-1) (3)(a) of the Human Rights Act (775 ILCS 5/1-101 et. seq.) and its Rules and Regulations (56 Ill. Adm. Code. Chapter. II, Section 2520.560), the charge is HEREBY DISMISSED and CLOSED.

2. Complainant may commence a civil action against Respondent in the appropriate state circuit court or other appropriate court of competent jurisdiction within ninety (90) days after receipt of this Notice. A complaint should be filed in the circuit court in the county where the civil rights violation was allegedly committed. **If you intend to exhaust your State remedies, please notify the Equal Employment Opportunity Commission (EEOC) immediately: EEOC, 500 West Madison Street, Suite 2000, Chicago, Illinois 60661.**

**Please note that the Department cannot provide any legal advice or assistance. Please contact legal counsel, your city clerk, or your county clerk with any questions.**

3. Complainant is hereby notified that the charge(s) are dismissed with prejudice with no right to further proceed if a timely written complaint is not filed with the appropriate circuit court.

DEPARTMENT OF HUMAN RIGHTS

# **Exhibit 3**



EEOC Form 161-B (11/16)

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

NOTICE OF RIGHT TO SUE (ISSUED ON REQUEST)

To: Jennifer Panattoni
c/o Amy Meek
Roger Baldwin Foundation of the ACLU-IL
180 N. Michigan Avenue, Suite 2300
Chicago, IL 60601

From: Chicago District Office
500 West Madison St
Suite 2000
Chicago, IL 60661

On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

Table with 3 columns: EEOC Charge No. (440-2018-05849), EEOC Representative (Kara Mitchell, Investigator), Telephone No. ((312) 869-8134)

(See also the additional information enclosed with this form.)

NOTICE TO THE PERSON AGGRIEVED:

Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act (ADA), or the Genetic Information Nondiscrimination Act (GINA): This is your Notice of Right to Sue, issued under Title VII, the ADA or GINA based on the above-numbered charge. It has been issued at your request. Your lawsuit under Title VII, the ADA or GINA must be filed in a federal or state court WITHIN 90 DAYS of your receipt of this notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

- More than 180 days have passed since the filing of this charge.
[X] Less than 180 days have passed since the filing of this charge, but I have determined that it is unlikely that the EEOC will be able to complete its administrative processing within 180 days from the filing of this charge.
[X] The EEOC is terminating its processing of this charge.
The EEOC will continue to process this charge.

Age Discrimination in Employment Act (ADEA): You may sue under the ADEA at any time from 60 days after the charge was filed until 90 days after you receive notice that we have completed action on the charge. In this regard, the paragraph marked below applies to your case:

- The EEOC is closing your case. Therefore, your lawsuit under the ADEA must be filed in federal or state court WITHIN 90 DAYS of your receipt of this Notice. Otherwise, your right to sue based on the above-numbered charge will be lost.
The EEOC is continuing its handling of your ADEA case. However, if 60 days have passed since the filing of the charge, you may file suit in federal or state court under the ADEA at this time.

Equal Pay Act (EPA): You already have the right to sue under the EPA (filing an EEOC charge is not required.) EPA suits must be brought in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.

If you file suit, based on this charge, please send a copy of your court complaint to this office.

On behalf of the Commission

Handwritten signature of Julianne Bowman

Julianne Bowman, District Director

6-14-2018 (Date Mailed)

Enclosures(s)

cc: Chief Executive Officer
VILLAGE OF FRANKFORT
Police Department
432 W. Nebraska Street
Frankfort, IL 60423

# **Exhibit 4**

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## Temporary Modified-Duty Assignments

### 1054.1 PURPOSE AND SCOPE

This policy establishes procedures for providing temporary modified-duty assignments. This policy is not intended to affect the rights or benefits of employees under federal or state law, Village rules, and current memorandums of understanding or collective bargaining agreements. For example, nothing in this policy affects the obligation of the Department to engage in a good faith, interactive process to consider reasonable accommodations for any employee with a temporary or permanent disability that is protected under federal or state law.

### 1054.2 POLICY

Subject to operational considerations, the Frankfort Police Department may identify temporary modified-duty assignments for employees who have sustained an on-duty injury or medical condition resulting in temporary work limitations or restrictions. A temporary assignment allows the employee to work, while providing the Department with a productive employee during the temporary period.

### 1054.3 GENERAL CONSIDERATIONS

Priority consideration for temporary modified-duty assignments will be given to employees with work-related injuries or illnesses that are temporary in nature. Employees having disabilities covered under the Americans with Disabilities Act (ADA) or the Illinois Human Rights Act (775 ILCS 5/1-101 et seq.) shall be treated equally, without regard to any preference for a work-related injury.

No position in the Frankfort Police Department shall be created or maintained as a temporary modified-duty assignment.

Temporary modified-duty assignments are a management prerogative and not an employee right. The availability of temporary modified-duty assignments will be determined on a case-by-case basis, consistent with the operational needs of the Department. Temporary modified-duty assignments are subject to continuous reassessment, with consideration given to operational needs and the employee's ability to perform in a modified-duty assignment.

The Chief of Police or the authorized designee may restrict employees working in temporary modified-duty assignments from wearing a uniform, displaying a badge, carrying a firearm, operating an emergency vehicle, engaging in outside employment, or being otherwise limited in employing their peace officer powers.

Temporary modified-duty assignments shall generally not exceed a cumulative total of 1,040 hours in any one-year period.

### 1054.4 PROCEDURE

Employees may request a temporary modified-duty assignment for short-term injuries or illnesses.

## Frankfort Police Department

Policy Manual

### *Temporary Modified-Duty Assignments*

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Employees seeking a temporary modified-duty assignment should submit a written request to their Deputy Chiefs or the authorized designees. The request should, as applicable, include a certification from the treating medical professional containing:

- (a) An assessment of the nature and probable duration of the illness or injury.
- (b) The prognosis for recovery.
- (c) The nature and scope of limitations and/or work restrictions.
- (d) A statement regarding any required workplace accommodations, mobility aids or medical devices.
- (e) A statement that the employee can safely perform the duties of the temporary modified-duty assignment.

The Deputy Chief will make a recommendation through the chain of command to the Chief of Police regarding temporary modified-duty assignments that may be available based on the needs of the Department and the limitations of the employee. The Chief of Police or the authorized designee shall confer with the Personnel Department or the Village Attorney as appropriate.

Requests for a temporary modified-duty assignment of 20 hours or less per week may be approved and facilitated by the Deputy Chief, with notice to the Chief of Police.

#### **1054.5 ACCOUNTABILITY**

Written notification of assignments, work schedules and any restrictions should be provided to employees assigned to temporary modified-duty assignments and their supervisors. Those assignments and schedules may be adjusted to accommodate department operations and the employee's medical appointments, as mutually agreed upon with the Deputy Chief.

##### **1054.5.1 EMPLOYEE RESPONSIBILITIES**

The responsibilities of employees assigned to temporary modified duty shall include, but not be limited to:

- (a) Communicating and coordinating any required medical and physical therapy appointments in advance with their supervisors.
- (b) Promptly notifying their supervisors of any change in restrictions or limitations after each appointment with their treating medical professionals.
- (c) Communicating a status update to their supervisors no less than once every 30 days while assigned to temporary modified duty.
- (d) Submitting a written status report to the Deputy Chief that contains a status update and anticipated date of return to full-duty when a temporary modified-duty assignment extends beyond 60 days.

## Frankfort Police Department

### Policy Manual

#### *Temporary Modified-Duty Assignments*

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##### 1054.5.2 SUPERVISOR RESPONSIBILITIES

The employee's immediate supervisor shall monitor and manage the work schedule of those assigned to temporary modified duty.

The responsibilities of supervisors shall include, but not be limited to:

- (a) Periodically apprising the Deputy Chief of the status and performance of employees assigned to temporary modified duty.
- (b) Notifying the Deputy Chief and ensuring that the required documentation facilitating a return to full duty is received from the employee.
- (c) Ensuring that employees returning to full duty have completed any required training and certification.

##### 1054.6 MEDICAL EXAMINATIONS

Prior to returning to full-duty status, employees shall be required to provide certification from their treating medical professionals stating that they are medically cleared to perform the essential functions of their jobs without restrictions or limitations.

The Department may require a fitness-for-duty examination prior to returning an employee to full-duty status, in accordance with the Fitness for Duty Policy.

##### 1054.7 PREGNANCY

If an employee is temporarily unable to perform regular duties due to a pregnancy, childbirth or a related medical condition, the employee will be treated the same as any other temporarily disabled employee (42 USC § 2000e(k)). A pregnant employee shall not be involuntarily transferred to a temporary modified-duty assignment. However, under Illinois law, the Department shall temporarily transfer a pregnant female officer to a less strenuous or hazardous position for the duration of her pregnancy if she so requests, with the advice of her physician, where that transfer can be reasonably accommodated (775 ILCS 5/2-102).

##### 1054.7.1 NOTIFICATION

Pregnant employees should notify their immediate supervisors as soon as practicable and provide a statement from their medical providers identifying any pregnancy-related job restrictions or limitations. If at any point during the pregnancy it becomes necessary for the employee to take a leave of absence, such leave shall be granted in accordance with the Village's personnel rules and regulations regarding family and medical care leave.

##### 1054.8 PROBATIONARY EMPLOYEES

Probationary employees who are assigned to a temporary modified-duty assignment shall have their probation extended by a period of time equal to their assignment to temporary modified duty.

## Frankfort Police Department

Policy Manual

### *Temporary Modified-Duty Assignments*

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#### **1054.9 MAINTENANCE OF CERTIFICATION AND TRAINING**

Employees assigned to temporary modified duty shall maintain all certification, training and qualifications appropriate to both their regular and temporary duties, provided that the certification, training or qualifications are not in conflict with any medical limitations or restrictions. Employees who are assigned to temporary modified duty shall inform their supervisors of any inability to maintain any certification, training or qualifications.

# Exhibit 5

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## Temporary Modified-Duty Assignments

### 1054.1 PURPOSE AND SCOPE

This policy establishes procedures for providing temporary modified-duty assignments. This policy is not intended to affect the rights or benefits of employees under federal or state law, Village rules, and current memorandums of understanding or collective bargaining agreements. For example, nothing in this policy affects the obligation of the Department to engage in a good faith, interactive process to consider reasonable accommodations for any employee with a temporary or permanent disability that is protected under federal or state law.

### 1054.2 POLICY

Subject to operational considerations, the Frankfort Police Department may identify temporary modified-duty assignments for employees who have sustained an on-duty injury or medical condition resulting in temporary work limitations or restrictions. A temporary assignment allows the employee to work, while providing the Department with a productive employee during the temporary period.

### 1054.3 GENERAL CONSIDERATIONS

Priority consideration for temporary modified-duty assignments will be given to employees with work-related injuries or illnesses that are temporary in nature. Employees having disabilities covered under the Americans with Disabilities Act (ADA) or the Illinois Human Rights Act (775 ILCS 5/1-101 et seq.) shall be treated equally, without regard to any preference for a work-related injury.

No position in the Frankfort Police Department shall be created or maintained as a temporary modified-duty assignment.

Temporary modified-duty assignments are a management prerogative and not an employee right. The availability of temporary modified-duty assignments will be determined on a case-by-case basis, consistent with the operational needs of the Department. Temporary modified-duty assignments are subject to continuous reassessment, with consideration given to operational needs and the employee's ability to perform in a modified-duty assignment.

The Chief of Police or the authorized designee may restrict employees working in temporary modified-duty assignments from wearing a uniform, displaying a badge, carrying a firearm, operating an emergency vehicle, engaging in outside employment, or being otherwise limited in employing their peace officer powers.

Temporary modified-duty assignments shall generally not exceed a cumulative total of 1,040 hours in any one-year period.

### 1054.4 PROCEDURE

Employees may request a temporary modified-duty assignment for short-term injuries or illnesses.



Frankfort Police Department  
Policy Manual

*Temporary Modified-Duty Assignments*

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Employees seeking a temporary modified-duty assignment should submit a written request to their Deputy Chiefs or the authorized designees. The request should, as applicable, include a certification from the treating medical professional containing:

- (a) An assessment of the nature and probable duration of the illness or injury.
- (b) The prognosis for recovery.
- (c) The nature and scope of limitations and/or work restrictions.
- (d) A statement regarding any required workplace accommodations, mobility aids or medical devices.
- (e) A statement that the employee can safely perform the duties of the temporary modified-duty assignment.

The Deputy Chief will make a recommendation through the chain of command to the Chief of Police regarding temporary modified-duty assignments that may be available based on the needs of the Department and the limitations of the employee. The Chief of Police or the authorized designee shall confer with the Personnel Department or the Village Attorney as appropriate.

Requests for a temporary modified-duty assignment of 20 hours or less per week may be approved and facilitated by the Deputy Chief, with notice to the Chief of Police.

**1054.5 ACCOUNTABILITY**

Written notification of assignments, work schedules and any restrictions should be provided to employees assigned to temporary modified-duty assignments and their supervisors. Those assignments and schedules may be adjusted to accommodate department operations and the employee's medical appointments, as mutually agreed upon with the Deputy Chief.

**1054.5.1 EMPLOYEE RESPONSIBILITIES**

The responsibilities of employees assigned to temporary modified duty shall include, but not be limited to:

- (a) Communicating and coordinating any required medical and physical therapy appointments in advance with their supervisors.
- (b) Promptly notifying their supervisors of any change in restrictions or limitations after each appointment with their treating medical professionals.
- (c) Communicating a status update to their supervisors no less than once every 30 days while assigned to temporary modified duty.
- (d) Submitting a written status report to the Deputy Chief that contains a status update and anticipated date of return to full-duty when a temporary modified-duty assignment extends beyond 60 days.

**Frankfort Police Department**  
Policy Manual

*Temporary Modified-Duty Assignments*

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**1054.5.2 SUPERVISOR RESPONSIBILITIES**

The employee's immediate supervisor shall monitor and manage the work schedule of those assigned to temporary modified duty.

The responsibilities of supervisors shall include, but not be limited to:

- (a) Periodically apprising the Deputy Chief of the status and performance of employees assigned to temporary modified duty.
- (b) Notifying the Deputy Chief and ensuring that the required documentation facilitating a return to full duty is received from the employee.
- (c) Ensuring that employees returning to full duty have completed any required training and certification.

**1054.6 MEDICAL EXAMINATIONS**

Prior to returning to full-duty status, employees shall be required to provide certification from their treating medical professionals stating that they are medically cleared to perform the essential functions of their jobs without restrictions or limitations.

The Department may require a fitness-for-duty examination prior to returning an employee to full-duty status, in accordance with the Fitness for Duty Policy.

**1054.7 PREGNANCY**

If an employee is temporarily unable to perform regular duties due to a pregnancy, childbirth or a related medical condition, the employee will be treated the same as any other temporarily disabled employee (42 USC § 2000e(k)). A pregnant employee shall not be involuntarily transferred to a temporary modified-duty assignment.

**1054.7.1 NOTIFICATION**

Pregnant employees should notify their immediate supervisors as soon as practicable and provide a statement from their medical providers identifying any pregnancy-related job restrictions or limitations. If at any point during the pregnancy it becomes necessary for the employee to take a leave of absence, such leave shall be granted in accordance with the Village's personnel rules and regulations regarding family and medical care leave.

**1054.8 PROBATIONARY EMPLOYEES**

Probationary employees who are assigned to a temporary modified-duty assignment shall have their probation extended by a period of time equal to their assignment to temporary modified duty.

**1054.9 MAINTENANCE OF CERTIFICATION AND TRAINING**

Employees assigned to temporary modified duty shall maintain all certification, training and qualifications appropriate to both their regular and temporary duties, provided that the certification, training or qualifications are not in conflict with any medical limitations or restrictions. Employees

**Frankfort Police Department**  
Policy Manual

*Temporary Modified-Duty Assignments*

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who are assigned to temporary modified duty shall inform their supervisors of any inability to maintain any certification, training or qualifications.