

TO: Ernestine Booth, Director of Human Resources

FROM: Annale Taylor, Deputy General Counsel
Louisville Metro Government

DATE: June 15, 2020

RE: Suspension of LMPD Officers Without Pay

In 2015, Louisville Metro Government and the River City Fraternal Order of Police Lodge 614 entered into a Memorandum of Understanding (MOU) to clarify the interpretation and application of state law and provisions of the Collective Bargaining Agreement. Ultimately, the MOU does not eliminate the restrictions on LMPD's ability to terminate pay prior to an officer being formally charged with misconduct.

As explained by the MOU, the LMPD Chief may suspend an officer without pay prior to the completion of an investigation in only very limited circumstances. The first requirement is that the Chief must possess evidence that eliminates genuine doubt that the officer's conduct is a violation of policy. The MOU provides examples of this type of evidence: video, audio recordings, or photographs. To eliminate genuine doubt, there must be indisputable evidence of wrongdoing. Some would argue that "eliminates genuine doubt" is almost the same as the evidentiary standard in a criminal case: "beyond a reasonable doubt."

There has been much discussion and speculation in the media about what may or may not have happened at the scene of Breonna Taylor's death. Some may believe the facts are clear and known. However, that is incorrect, as there is disputable evidence as to whether misconduct occurred. This doubt can only be resolved, if at all, by a thorough and fair investigation, as is underway by the LMPD Public Integrity Unit, Attorney General, the FBI and the Civil Rights Division of the Department of Justice.

Unlike the death of George Floyd in Minneapolis, there are no video or audio recordings of Ms. Taylor's death. Without this sort of indisputable evidence of wrongdoing, under law and contract, the Chief cannot suspend officers without pay until an investigation is completed.