

## 11. DISCIPLINE (December 2005)

### I. POLICY

The Department has the responsibility to identify and discipline employees whose conduct discredits the Department or impairs its operation. The rights of the employee and the public must be preserved. Any investigation or hearing arising from a complaint must be conducted fairly and openly, consistent with applicable legislation.

### II. CHECKLIST (N/A)

### III. DEFINITIONS

**Discriminatory Language:** Demeaning, derogatory or abusive language, or other unbecoming conduct relating to the race, color, national origin, gender or religion of a person. (Category IV).

**Abusive Language:** Harsh, violent, profane or derogatory language that would demean the dignity of any person. (Category II).

**Inappropriate Language:** Name-calling, sarcastic remarks or other unnecessary language that serves to belittle or embarrass a citizen or otherwise inflame an employee/citizen contact. (Category I).

**False statement:** Reporting or causing a report of false information, proved by evidence that such report is untrue, deceitful or made with intent to deceive.

**Harassment:** Repeated, unwanted verbal or physical annoyances, threats or demands.

**Investigator:** Any employee who, under authority of the Chief of Police, conducts an internal investigation and makes

recommendations regarding that investigation.

**Misrepresentation of fact:** The submission or giving of a report or statement containing improper or inaccurate information.

**Respondent:** Any employee who is the subject of an internal investigation.

**Conduct-Related Offenses:** Violation or failure to comply with any duty, obligation or requirement imposing a standard of behavior on an employee by any criminal law, civil law or regulation, provided such violation bears a demonstrable relationship to the nature of the duties and responsibilities of the employee's position and or constitutes a willful, indifferent, or grossly negligent act of omission by such employee.

**Performance-Related Offenses:** Occur when an employee's performance has become less than satisfactory regarding the execution of any duties, tasks and/or responsibilities listed in their position description.

### IV. FORMS (N/A)

### V. PROCEDURES

#### 1. Authority of Chief of Police

The Chief of Police is authorized to initiate and administer discipline, as well as authorize subordinate supervisors to initiate, administer or recommend disciplinary action against an employee. The Chief of Police may authorize the following to take such actions:

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- ❑ Civilian supervisors so authorized in writing
- ❑ Corporals formally appointed in writing as OICs of a Departmental component
- ❑ Officers in acting ranks of sergeant or above, appointed in writing as OICs of a Departmental component
- ❑ Sergeants and above
- ❑ Sworn members of the Office of Professional Responsibility (OPR) in conjunction with an internal investigation

### 2. **Supervisory Limitations to Initiate Disciplinary Action**

An investigator's primary responsibility is to conduct investigations and, when necessary, recommend disciplinary action.

Disposition of investigative and disciplinary recommendations can only be authorized by the Chief of Police, except as provided in section 5. **Disciplinary Action Recommendations Guide** of this chapter.

Disciplinary recommendations shall not be presented to a respondent until authorized by the supervisor's Commander/Director. The Commander/Director shall contact the Director, OPR, to ensure that the disciplinary action recommendations proposed to the Bureau Chief are commensurate with the charged offenses.

In minor cases, the Director, IAD recommends discipline when case numbers are obtained. Prior to the initiation of major disciplinary action, the Bureau Chief or their designee shall verbally discuss the following with the Director, OPR:

- ❑ Facts of the investigation
- ❑ Unusual circumstances
- ❑ Charge(s)
- ❑ Offense category

- ❑ Proposed disciplinary action

The Director, OPR, will confer with the Chief of Police to ensure discipline is consistent throughout the agency. The Director, OPR will then notify the Bureau Chief's office to proceed with the appropriate disciplinary action. The Bureau Chief's office will document the approval process on the transmittal memorandum.

The Commander/Director must have cleared the recommendation with the appropriate Bureau Chief before presenting it to the respondent. An exception would be recommendations made in the following cases, which must be approved by the Chief of Police before presentation to the respondent:

- ❑ Abusive language
- ❑ Harassment complaints
- ❑ Use of force

### 3. **Limitations of Authority**

#### *Officer*

Those authorized to suspend, recommend or administer discipline against officers are limited in taking such action to the following:

- ❑ AWOL
- ❑ Being convicted of a crime
- ❑ Knowingly giving false statements to supervisors or the public
- ❑ Mishandling, abuse or theft of County property
- ❑ Misrepresentation of facts
- ❑ Unsatisfactory performance
- ❑ Violations of provisions of written directives
- ❑ Acceptance of gratuities
- ❑ Consuming alcoholic beverages or being intoxicated on the job

- ❑ Immoral or unethical conduct reflecting unfavorably on the County as an employer
- ❑ Loss of any job requirement, license or ability, which prevents the employee from satisfactorily executing job tasks or fulfilling mandated training or certification requirements
- ❑ Membership in any organization advocating overthrow of the U.S. government by force or violence
- ❑ Refusal to be examined by a County-authorized physician when in response to a direct order

### ***Civilian Employees & Probationary Officers***

For these employees, supervisor-imposed disciplinary action is limited to a written reprimand for conduct-related violations. For performance or conduct-related violations where more than a written reprimand is contemplated, the supervisor shall send a Disciplinary Action Recommendation Letter to the Chief of Police describing the facts of the investigation and the proposed disciplinary action.

References to protections afforded by the Law Enforcement Officers' Bill of Rights (LEOBR) do not apply to probationary student officers, except for allegations of police brutality.

### ***Student Officers***

Discipline matters for probationary student officers are handled in accordance with the Prince George's County Code.

## **4. Summary Punishment**

Summary punishment may be imposed when all of these conditions have been met:

- ❑ Employees waive the Administrative Hearing Board and their rights under the LEOBR, and
- ❑ Employees accept punishment imposed by the highest ranking officer of their component, and
- ❑ The facts constituting the violation are not in dispute

## **5. Disciplinary Action Recommendations Guide**

The guide promotes uniformity in levying certain disciplinary actions.

The following shall be approved up the chain of command, with concurrence of the Bureau Chief:

- ❑ Deviations from recommended disciplinary actions
- ❑ Proposed disciplinary action on cases for which the violation is not listed in the guide

When a violation is not listed, the Commander/Director shall select an action based on the severity of the violation in comparison with violations that are listed in the guide.

The Commander/Director shall send the disclosable case file and explanation of proposed disciplinary action to the Disciplinary Review Committee (DRC) before disciplinary action is taken if:

- ❑ They select an action outside the guide recommendations, or
- ❑ The violation is not covered by the guide, and
- ❑ The respondent requests review by the DRC

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When proposed discipline exceeds that established by the LEOBR, employees must waive their rights under the LEOBR when agreeing to accept the proposed discipline.

A second (or greater) Category I, II, or III violation of the same offense within 24 months can cause the disciplinary action recommendation to advance to the next higher category, with penalties levied from the higher category.

### ***Appeal of Proposed Action***

An employee receiving a proposed disciplinary action in excess of that prescribed in the Disciplinary Action Recommendation Guide may request a review by the DRC.

### ***Disciplinary Action Recommendations***

#### **Category I**

Recommended disciplinary action range:

- ❑ Written reprimand to \$100.00 fine, or
- ❑ Loss of 1-10 hours of annual leave

#### **Violations:**

- ❑ Inappropriate language
- ❑ Court, Failure to Appear
- ❑ Discourtesy
- ❑ Equipment, failure to properly control or maintain
- ❑ Equipment, unauthorized
- ❑ Felony screening, failure to schedule or appear
- ❑ Force, unnecessary
- ❑ Grooming violations
- ❑ Minor traffic laws, violate
- ❑ Mishandle or improper preparation of criminal or traffic cases resulting in

prosecutorial declination to prosecute, dismissal of nolle prosequi

- ❑ Misrepresentation of facts
- ❑ Police radio, failure to properly acknowledge
- ❑ Police vehicle, careless operation of
- ❑ Police vehicle, failure to properly maintain
- ❑ Police vehicle, illegal parking of
- ❑ Prisoner, failure to properly secure, search, handcuff, seat belt
- ❑ Reports, failure to submit
- ❑ Response status (priority), improper or unauthorized
- ❑ Ride-alongs, unauthorized and violation of procedures
- ❑ Secondary employment, excessive hours
- ❑ Secondary employment, failure to make proper notification
- ❑ Sick leave abuse
- ❑ Telephone procedures, violate
- ❑ Uniform regulations, violate

#### ❑ **Category II**

Recommended disciplinary action range:

- ❑ \$100.00 - \$250.00 fine, or
- ❑ Loss of 10-30 hours annual leave, or
- ❑ 10-30 hours of suspension without pay

#### **Violations:**

- ❑ Abusive language
- ❑ AWOL
- ❑ Calls for service, failure to respond to and/or properly clear
- ❑ Departmental vehicle, flagrant traffic violation while operating (such as excessive speed)
- ❑ Firearms, unattended or careless handling of
- ❑ Harassment
- ❑ Hot pursuit, unauthorized
- ❑ Leave sector or district without supervisory approval

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- ❑ Non-lethal weapon (including use of a K9), careless handling of resulting in injury
- ❑ Prisoner, fail to properly search or secure resulting in escape or discovery of weapon or contraband

### Category III

Recommended disciplinary action range:

- ❑ \$250.00 - \$1,000.00 fine, or
- ❑ 20-40 hours suspension without pay, and/or removal from the promotional cycle; reassignment
- ❑ For security-related secondary employment violations – loss of privilege to work such employment for 2-6 months
- ❑ **Violations:**
  - ❑ Departmental vehicles, unauthorized use of
  - ❑ Aggressive force
  - ❑ Firearms, unreported discharges of
  - ❑ Firearms violations, careless handling resulting in injury
  - ❑ Motor vehicle, operating while privilege revoked or suspended
  - ❑ Security-related secondary employment violations:
    - ❑ Working while on prohibited leave or duty status
    - ❑ Engaging in selling, serving or dispensing alcoholic beverages in any manner
    - ❑ Employment or ownership in or on behalf of private detective, attorney, insurance agency, bail bond agency or involvement in any form of private investigation duties, including civil process service
    - ❑ Employment for any party in a labor management dispute

- ❑ Employment as commissioned police officer for other political jurisdiction
- ❑ Attempting to secure Departmental compensation for arrests emanating directly from secondary employment

### Category IV

Violations in this category should be sent to an Administrative Hearing Board.

Recommended disciplinary action range:

- ❑ Fines exceeding \$1,000.00
- ❑ Reassignment
- ❑ Reduction in rank
- ❑ Removal from promotional cycle
- ❑ Suspensions exceeding 40 hours
- ❑ Written reprimand to termination from the Department

### Violations:

- ❑ Discriminatory language
- ❑ Alcohol-related offenses
- ❑ Criminal law offenses
- ❑ Drug-related offenses
- ❑ Excessive force
- ❑ False statements/reports
- ❑ Insubordination
- ❑ Loss of job requirement
- ❑ Security-related secondary employment violations:
  - ❑ Receiving payment from two or more employers simultaneously without written permission of the multiple employers
  - ❑ Participating in employment requiring conduct inconsistent with Departmental objectives, regulations, ethics or reputation or that creates real or potential conflict of interest
  - ❑ Receiving compensation from other employment source while on-duty for the County

### ***Violation Classifications***

Disciplinary actions are classified as conduct- or performance-related offenses.

When disciplinary action is intended against employees covered by provisions of a PCEA contract, the recommended discipline shall be initiated within 90 days of:

- ❑ The occurrence of the wrongful act
- ❑ Departmental knowledge of the act
- ❑ The date on which the Department should have had knowledge of the act

The Chief of Police may hold disciplinary actions in abeyance to allow the employee to demonstrate conformance to standards.

### **6. Conduct-Related Offenses**

Disciplinary action range for conduct-related offenses:

- ❑ Written reprimand
- ❑ Forfeiture of annual leave
- ❑ Maximum 20 days for a violation justifying dismissal
- ❑ Should not exceed 10 working days if issued as follow-up action to a written reprimand
- ❑ Maximum fine of three percent (3%) of the employee's annual base salary for any one violation
- ❑ Suspension
- ❑ Dismissal
- ❑ Actions held in abeyance

### **7. Performance-Related Offenses**

Supervisors shall rely on any one of the following factors to determine if an employee's performance has degraded to a degree warranting disciplinary action:

- ❑ Employee unjustifiably fails to execute an assignment as described within his or her position description
- ❑ Employee's actions, negligence, or attitude constitute a course of conduct characterized by an inability, incapability, or unwillingness to maintain a minimum standard of performance regarding the quality or quantity of any of the duties listed in his or her position description
- ❑ Loss of any job requirement preventing satisfactory execution of job tasks, mandated training, or certification requirement

Disciplinary action range for performance-related offenses:

- ❑ Written reprimand
- ❑ Demotion
- ❑ Salary reduction by amount equal to one step rate within the applicable salary range
- ❑ Dismissal
- ❑ Actions held in abeyance

### **8. Evaluating Discipline Severity**

The following factors shall be considered in making disciplinary recommendations:

- ❑ Severity of the disciplinary action compared to the nature of the acts constituting the grounds for disciplinary action
- ❑ Extenuating circumstances that may lessen the severity of the proposed disciplinary action
- ❑ Uniformity of the proposed disciplinary action in relation to disciplinary actions given other employees under similar circumstances
- ❑ Employee's prior record of conduct or performance

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When an employee's performance is marginal, their record may be considered in the determination of performance-related disciplinary action

### ***Disciplinary Review Committee (DRC)***

The DRC is composed of three command officers (appointed by the Chief of Police), and two FOP members (appointed by the President, FOP). Quorum is two command officers and one FOP member. Appointments are for one year. The Chief of Police appoints the chairman.

### ***DRC Duties***

The DRC shall conduct an annual review of the Disciplinary Action Recommendation Guide. It shall submit a report containing the findings of such review, including recommendations for revisions to the guide, to the Chief of Police no later than February 1 each year.

The DRC shall conduct a quarterly review of all recommended disciplinary actions to ensure established guidelines are being followed.

### ***Requesting Review by Committee***

The employee requesting a DRC review must waive the 30-day review by the Chief of Police, if applicable.

They must make written application within 10 days of receipt of notification of proposed disciplinary action.

### ***Disciplinary Action Review***

The Disciplinary Review Committee shall schedule a meeting within five working days after receipt of a review request. It shall

examine the materials transmitted by the Commander/Director proposing the disciplinary action to ensure the proposed disciplinary action falls within prescribed disciplinary guidelines. If so, the DRC shall notify the requester, in writing, within five working days of its meeting.

If the proposed disciplinary action exceeds prescribed disciplinary action, the Disciplinary Review Committee shall notify, in writing, the Chief of Police and requester. The Chief shall review the recommendations of the hearing board and Commander/Director and issue a final order. That order is then applicable in accordance with the LEOBR.

A respondent may request a review of any Disciplinary Review Committee recommendation to the Chief of Police.

## **9. External Appeal of Adverse Disciplinary Action**

### ***Officer: Permanent Status***

All disciplinary actions or adverse actions are appealable in accordance with the LEOBR and/or other applicable law.

### ***Officer: Probationary Status***

Probationary officers may only appeal disciplinary or adverse actions alleged to be illegal or taken without the officer having received a statement or notice of the charges. Exception: Adverse actions resulting from allegations of use of force are appealable in accordance with the LEOBR.

***Civilian Employees: Permanent Status***

Permanent civilians who are members of the PCEA may appeal a disciplinary or adverse action in accordance with the grievance procedures stipulated in the PCEA contract. Permanent civilians who are not PCEA members may appeal disciplinary actions or adverse actions in accordance with Personnel Law.

***Civilian Employees: Probationary Status***

Probationary civilian employees may only appeal disciplinary or adverse actions alleged to be illegal or taken without the employee having received a statement or notice of the charges.

***Appeal of the AHB Decision***

**See: VOLUME I, CHAPTER 2. ADMINISTRATIVE HEARING BOARDS.**

**10. Duty Status**

For information regarding duty status (I.E. Administrative Leave, Suspension of employees, Discretionary Suspension, Mandatory Suspension, Suspension Procedures, Suspension Hearings and Restoration to Duty, **See: VOLUME I, CHAPTER 23. LEAVE & DUTY STATUS.**

**VI. GOVERNING LEGISLATION & REFERENCE**

This General Order addresses:

- ❑ Commission on Accreditation for Law Enforcement Agencies, Standards 26.1.1, 26.1.4, 26.1.5, 26.1.6,

Governing Legislation:

- ❑ Maryland Code, Title 3, Sub-Title 1 Prince George's County Code, Subtitle 16, Division 13

Reference:

- ❑ Law Enforcement Officers' Bill of Rights (LEOBR)
- ❑ Negotiated Labor Contracts
- ❑ Office of Professional Responsibility, Internal Investigations Guide