

# TAKOMA PARK POLICE DEPARTMENT - GENERAL ORDERS



TITLE: <b>DISCIPLINARY PROCESS</b>		NUMBER: <b>402</b>
EFFECTIVE DATE: <b>April 03, 2018</b>		REVIEW DATE: April 03, 2021
New <input checked="" type="checkbox"/> Amends <input type="checkbox"/> Rescinds		Dated May 31, 2002
AUTHORITY: <b>Chief Antonio DeVaul</b>		TOTAL PAGES: <b>5</b>

**01 Purpose:** To describe components of, and responsibilities for an effective disciplinary process. See also General Orders 635 (Complaints/Internal Affairs) and 422 (Commendations).

**02 Policy:** Discipline is necessary for the efficient, effective, and fair operation of a police department. Measures used to administer discipline may be positive or negative in nature. It will be the policy of this agency that discipline shall be administered fairly and appropriately in proportion to the severity of the infraction, as described in the disciplinary matrix attached to this General Order. Discipline shall be administered progressively based on prior documented performance of an employee. Discipline may be administered for any violation of Law, Departmental Rules, General Orders, Special Orders, other written directives, or lawful written or verbal orders of superiors. All aspects of the Maryland Law Enforcement Officers Bill of Rights shall be followed in regards to the disciplinary process. Be reminded that the Law Enforcement Officers Bill of Rights does not apply to probationary officers.

## **03 Components of the Disciplinary System:**

A. Receipt of complaint, observation of infraction, or other manner of discovery of unacceptable performance. Infractions may be discovered by receipt of formal complaint (as described in General Order 635), observed by a supervisor, discovered through inspections, or other means of reviewing performance.

B. Investigation of circumstances – a thorough review of all information available relevant to the suspected infraction or unacceptable performance will be conducted.

C. Finding of Fact - interpretation of the investigations findings, as it relates to departmental directives or orders. Findings of Fact of any internal investigation or other disciplinary matter shall be classified in one of the following manners:

\*Proper Conduct - the officer acted properly in accordance with law and departmental directives

\*Improper Conduct - the officer acted contrary to law or departmental directives

\*Policy Failure - the officer may have acted contrary to a desired standard, but was within departmental guidelines that need revision

\*Insufficient Evidence - not enough evidence was found to support another finding definitively

\*Unfounded Complaint - conclusive evidence exists to support a finding that the complaint did not occur as reported

Nothing in this general order or its attachments shall prevent any investigator of an internal matter from making a recommendation or presenting any mitigating information towards the administration of discipline.

D. Administration of Disciplinary Measure - corrective action taken by the appropriate authority. For sworn officers, the procedures set forth herein shall be used. For non-sworn members of the Department, procedures are set forth in the City Code.

E. Documentation - includes notification to employee, notification to employee's supervisor, personnel records, and notification to complainants as appropriate.

## **04 Disciplinary Measures**

A. Training - may be supplemental, advanced, or remedial. See also General Order 403.

B. Counseling - corrective instruction by a supervisor or other superior ranking officer to an employee for the purpose of insuring the employee is aware of acceptable job related expectations, and the means for performing to these expectations. Other sources of counseling may also be used, including peers with appropriate areas of expertise, and the Employee Assistance Program (EAP) as appropriate

C. Reprimands - may be issued either written or verbally, but at least the nature of the reprimand shall be documented in writing, in either the employee's supervisory documentation or in the employee's personnel file.

D. Approved Community Service

E. Loss of Annual Leave

F. Fines or restitution

G. Suspension - with or without pay, as specified

H. Loss of Rank

I. Dismissal

## **05 Documentation**

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A. Training: Normally is documented in an officers training file, however remedial training ordered as a disciplinary matter may be documented in an officer's personnel file as well.

B. Counseling: shall be documented describing the infraction or unacceptable behavior circumstances, what correction was given in way of instructions, and what future actions may result should the officer fail to show improvement or commit additional similar infractions. Documentation will be contained in the performance review files of the employee's supervisor, and may be forwarded for inclusion in the employee's personnel file as specified on the counseling documentation form. After two years from the date of receipt of the counseling, an officer may petition the Chief for removal of the counseling documentation from his/her personnel file. Such request shall be granted unless, in the Chief's determination, similar subsequent events have occurred, or the unacceptable behavior was not improved.

C. Reprimands: shall be documented the same as with counseling, except that it shall remain a part of an employee's personnel file for five years, before the employee is eligible to petition the Chief for its removal, as in section B above.

D. Any disciplinary action resulting in a loss of leave, fine, or working additional days shall be documented as in section B above, except that it shall remain a part of the employee's personnel file for 10 years before the employee may petition the Chief for its removal, as in section B above

E. Disciplinary actions resulting in a loss of rank or dismissal shall remain in an employee's personnel file permanently.

F. In all punitive actions except for an oral reprimand, the officer involved (except probationary officers) will be provided with a copy of:

- \* A written document setting forth the reason for the action, and conclusions of fact for each allegation of misconduct;
- \* The effective date of the punishment;
- \* The impact, if any, on the officer's salary, leave, benefits and retirement, and
- \* A statement as to the content of the officer's personnel/employment record, including where copies of the action are filed, for how long, and under what circumstances they will be purged.

G. A copy of any disciplinary action shall be forwarded to the Professional Standards Manager for inclusion into the Department's IA Pro database.

### **06 Authority to Discipline**

A. Sergeants shall have the authority to administer counseling, oral and written reprimands.

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B. Division Commanders shall have the authority to administer counseling, reprimands, loss of leave up to three days, suspension without pay up to three days, or fines up to \$150.

C. All other methods of discipline shall only be administered by the Chief of Police.

D. All disciplinary measures to be administered described in section **04** will be forwarded to the Professional Standards Manager for review/approval, and entry into IA Pro prior to them being administered.

### **07 Non-Disciplinary Suspensions**

A. Any officer of the rank of Sergeant or above may immediately suspend from duty an officer who reports to work intoxicated or otherwise unfit for duty. Such a suspension shall be immediately reported to the Chief of Police, and shall be followed with a written report of the facts and circumstances leading to the suspension unless or until a complete investigation is conducted.

B. The Chief of Police may order the emergency suspension of an officer, with pay, pending the results of an investigation, when it appears that the action is in the best interest of the public and the law enforcement agency.

C. The Chief of Police may order the emergency suspension of an officer, without pay, when the officer has been charged with the commission of a felony.

D. In any event when an employee's actions or use of force results in a death or serious physical injury, the employee shall be either suspended with pay, or re-assigned from a line duty assignment, pending administrative review of the incident.

E. Nothing in this procedure shall limit the authority of the Chief to transfer or re-assign an employee in a non-punitive manner, in the best interests of internal management of the Department.

F. No action taken under this section shall be documented in an employee's personnel file except as a result of discipline issued following the related investigation.

### **08 Prescribed Measures of Discipline:**

Discipline will be administered consistent with the Disciplinary Matrix contained in Attachment A to this general order. Any matter being considered for discipline that is not covered in the Disciplinary Matrix shall be categorized and disciplined at the discretion of the Chief. The Chief of Police may increase the disciplinary measures within the Disciplinary Matrix if the Chief personally reviews the entire record/file, meets with the officer and allows the officer to be heard, and provides written facts used to support the increase.

**09 Violation Categories and Corresponding Disciplinary Measures:**

- A. Category “A” Violations - May receive remedial training, counseling, handled by mediation, ordered to make restitution, or loss of privileges,
- B. Category “B” Violations - counseling, oral or written reprimands, approved community service of up to 10 hours, loss of leave of up to one day, suspension without pay of up to one day, or a fine of up to \$50.00.
- C. Category “C” Violations - approved community service of 16 to 30 hours, loss of leave of 2-3 days (16 to 30 hours depending on employee’s schedule), suspension without pay of 2-3 days (16 to 30 hours), or fines up to \$150.00.
- D. Category “D” Violations - approved community service of from 24 to 150 hours, loss of leave of from 3 to 15 days (24 to 150 hours, depending on schedules), suspension without pay from 3 to 15 days (24 to 150 hours), or fines in excess of \$150.00.
- E. Category “E” Violations - suspension without pay in excess of 15 days (in excess of 120-150 hours, depending on schedules), demotion, or dismissal.
- F. All subsequent violations that are similar in nature within three years to a previous violation shall be disciplined at the next higher category rating. “Similar in nature” shall mean that they are listed under the same general grouping within the Disciplinary Matrix.
- G. Multiple violations stemming from the same incident may be sentenced either consecutively or concurrently, at the discretion of the Chief.
- H. Subsequent violations within one year of a dissimilar nature may be disciplined at the next higher category, at the discretion of the Chief.
- I. Subsequent Category “E” violations of a similar nature shall be cause for dismissal.
- J. Any discipline for an incident levied in one category may also include additional sanctions of a different nature from a lower category. (For example: an officer disciplined with a four-day suspension under a category “D” violation, may also be given disciplinary remedial training).
- K. The selection of the nature of the discipline within one specific category is at the discretion of the authority levying the discipline, not the officer receiving the discipline.