

Summary Punishment

Index Code: 302.5

Effective Date: 04/15/10 (revised 6/9/2020)

I. Purpose

The purpose of this directive is to outline procedures for the use and implementation of summary punishment as a disciplinary tool.

II. Policy

It is the policy of the Office of the Sheriff to utilize summary punishment when appropriate for minor violations of agency rules, if the facts that constitute the minor violation are not in dispute, the deputy waives the hearing provided under the Law Enforcement Officers Bill of Rights, and the deputy accepts the punishment imposed.

The Sheriff will appoint a member of the Command Staff as Commander of Internal Affairs, who will periodically update the Sheriff on all such matters. The Sheriff has the final authority concerning all internal affairs matters including, but not limited to, imposition of summary punishment.

III. Criteria

Summary punishment is a disciplinary tool intended for use by supervisory and command staff personnel. However, before summary punishment may be offered the Commander of Internal Affairs must be apprised of the circumstances and authorize disposition of the matter under summary punishment.

For the purposes of administering summary punishment, the term "commanding officer" when used in this directive means the division commander, or a supervisor acting in the capacity of the division commander, of the affected employee's organizational component.

The above procedure does not preclude a supervisor from counseling a subordinate. Uses of the counseling process can correct undesirable behavior while maintaining maximum harmony between a supervisor and subordinate.

Summary punishment may be imposed after all the following conditions are met:

A. A complaint of employee misconduct is reported on a Complaint against Personnel form;

B. The complaint was an on-view violation, or has been investigated and classified as "sustained;"

C. The Commander of Internal Affairs has been contacted and has determined that the misconduct can be best resolved by the administration of summary punishment;

D. The affected employee's division commander approves the level or type of summary punishment to be offered; and

E. The employee waives any applicable LEOBR rights and accepts the summary punishment in writing, within five (5) working days of the offer.

In all cases, summary punishment will be imposed within thirty (30) days from the date of review by the commanding officer, and in the case of suspension, concluded in consecutive working days after imposition.

IV. Statutory Provisions

Summary punishment may be imposed for minor violations of law enforcement agency rules and regulations when: (1) The facts that constitute the minor violation are not in dispute; (2) the law enforcement officer waives the hearing board provided by Maryland Code, Public Safety Article, Title 3, Subtitle 1 (LEOBR), and the law enforcement officer accepts the punishment imposed by the highest ranking law enforcement officer, or individual acting in that capacity, of the unit to which the offer is attached (Section 3-111, Summary Punishment).

Summary punishment may not exceed suspension of three days without pay or a fine of \$150.00.

V. Procedures

Disciplinary actions involving summary punishment will be processed as follows:

A. Notification to Internal Affairs

Supervisors who wish to impose summary punishment must first brief their division commander, if applicable, and the Commander of Internal Affairs on the circumstances of the case. The Commander of Internal Affairs, or his/her designee, will determine if the violation or complaint may be resolved with summary punishment.

If summary punishment is authorized, the Commander of Internal Affairs will provide a case number (I.A. #), the necessary forms and instructions, and will inform the supervisor of the employee's disciplinary history, and the range of summary punishment options that are appropriate for the violation.

B. Supervisor's Responsibilities

1. In cases of on-view violations, submit a Complaint against Personnel form describing the circumstances and the recommended summary punishment to the component's division commander.

2. If the violation is not on-view, conduct an investigation and document the findings in a report to the component's division commander. If the complaint is sustained, submit a recommendation of summary punishment.

C. Investigative File

The supervisor who decides to impose summary punishment is responsible for ensuring that the investigative file is complete. Investigative files should contain, at a minimum, the following items if applicable:

1. Charging Document

Either a Complaint against Personnel form or an Accident Review Board report must be included in the investigative case file. In addition, a supplement report containing details of the incident must be submitted if the supervisor witnessed the violation or has direct knowledge of it.

2. Investigative Report(s)

If the alleged misconduct is not "on-view," an investigation must be conducted. The supervisor's investigative report must include the following, if applicable:

- a. Notice to appear for a statement
- b. Statements of accused officer
- c. Statements of complainant/victim
- d. Statements of witnesses
- e. Summary of all items of evidence

In the case of departmental accidents, the file must contain, at a minimum, the following:

- a. Driver statements
- b. Witness statements
- c. Accident report
- d. Supervisor's report
- e. Photographs
- f. Accident Review Board's conclusion

3. Conclusion of Fact

The investigative report will conclude that the alleged misconduct was at least one of the following:

- a. Exonerated
- b. Policy Failure
- c. Sustained
- d. Not Sustained
- e. Unfounded
- f. Unreported Misconduct

D. Commander's Review

Upon concurrence with the disposition or recommendation by the division commander, the entire file will be returned to the originating supervisor with written authorization to impose summary punishment. If the division commander does not concur with the disposition or recommendation, the entire file will be returned to the originating supervisor stating the action to be imposed or requesting further justification or investigation.

E. Notification to Deputy

Once summary punishment has been approved, the supervisor will notify the accused deputy of the specific charge(s) and proposed summary punishment offered by way of a Notification of Charges form. The accused deputy may consider the offer for five working days to decide whether to accept or refuse the offered summary punishment.

F. File Distribution

1. If the accused deputy accepts the punishment and waives a trial board, the originating supervisor will impose the summary punishment and place the signed Notification of Charges in the investigative file. The supervisor

will hand deliver the file to the Commander of Internal Affairs for permanent filing.

2. If the accused deputy requests a trial board the originating supervisor will hand deliver the file to the Commander of Internal Affairs, who either initiate a trial board or file the investigative report.

G. Notice of Disciplinary Action

Official notice of the disciplinary action will be made to the accused deputy via interoffice correspondence, and distributed as follows:

1. One signed copy will be kept in the investigative file.

2. The original will be filed in the employee's personnel file as well as uploaded to the employee's cloud based personnel file.

3. One copy will be given to the accused deputy.

H. Notification to Complainant

The investigating supervisor, commander or Chief Deputy will send a letter or email to the complainant within five (5) days, if applicable, stating the results of the investigation (sustained, not sustained, unfounded, exonerated, or policy failure), final disposition of the complaint and any discipline imposed as a result. A copy of the letter will be placed in the completed investigative file.

VI. CALEA References: 26.1.4, 26.1.5 & 26.1.8

VII. Proponent Unit: Administrative Services Division

VIII. Cancellation: Written Directive dated 4/15/10

Sheriff Gary Hofmann