

Disciplinary Process

Index Code: 302

Effective Date: 09/15/08 (Revised 7/12/2022)

I. Purpose

The purpose of this written directive is to establish a disciplinary process for all persons employed by the Office of the Sheriff. This directive applies to all allegations of misconduct against agency personnel, regardless of duty status.

II. Policy

A relationship of trust and confidence between the Office of the Sheriff and the community is essential to effective law enforcement. Employees must be free to exercise their own judgment and take action in a reasonable, lawful and impartial manner without fear of reprisal.

It is therefore important to establish a disciplinary process that enables the agency to initiate positive, corrective action for improper conduct while at the same time protecting employees from unwarranted criticism for properly discharging their duties.

It is the policy of the Office of the Sheriff to provide a thorough, fair and expeditious disposition of complaints about the conduct of its employees. Further, it is the policy to invite individuals to bring about to the agency's attention complaints about its employees whenever that person feels the employee acted improperly.

III. Definitions

The following terms are defined as indicated for purposes of this directive and all other directives.

Brutality – The use of unnecessary or excessive physical force by an employee while acting in an official capacity.

Complaint – An allegation of misconduct made against an employee of the agency.

Counseling – Supervisory counseling of subordinates is non-disciplinary corrective action. In most cases it is made a part of the employee's electronic personnel record, unless documented in written form.

Hearing Board – Also known as the trial board process that adjudicates matters of alleged police misconduct.

Law Enforcement Officer – Any person, who in his/her official capacity is authorized by law to make arrests, and who is a member of a bona fide law enforcement agency.

Non-Punitive Transfer – The Sheriff has the authority to regulate the competent and efficient operation and management of the County Office of the Sheriff by any reasonable means including, but not limited to, transfer and reassignment where that action is not punitive in nature and where the Sheriff determines that action to be in the best interest of the internal management of the law enforcement agency

Probationary Status – A law enforcement officer is on probationary status for two years from the date of hire as a lateral hire (certified officer) or two years from police academy graduation if entry level with the Queen Anne's County Office of the Sheriff.

Summary Punishment – Punishment imposed by the Chief Deputy with approval by the Sheriff. Summary punishment may not exceed thirty (30) days suspension without pay or the equivalent loss of accrued leave as well as restitution and/or demotion and may be imposed for minor violations of agency rules and regulations when; (1) the facts which constitute the minor violation are not in dispute; (2) the deputy waives the right to a hearing; and (3) the deputy accepts the punishment.

Violation – Any infringement of a directive, law, lawful order, procedure, regulation, rule, or standard of conduct.

IV. Disciplinary System

This directive establishes the agency's disciplinary system. The disciplinary system includes the following elements:

A. Rewarding

The criteria and procedures for rewarding employees are explained in Index Code 203, Awards and Commendations.

B. Counseling & Retraining

The criteria and procedures for using counseling and retraining as a function of discipline are explained in Index Code 302.4.

C. Punitive Action

The criteria for taking punitive action against an employee are explained in the remainder of this directive.

V. Progressive Discipline

A. Considerations

Disciplinary action is administered in a progressive fashion. The seriousness of the incident, the circumstances surrounding the incident, the employee's past disciplinary record, the employee's past work performance, the overall negative impact on the organization caused by the incident, and the likelihood for future similar problems are taken into consideration by the County Administrative Charging Committee (ACC) or the Sheriff and Chief Deputy or their designees in the administration of disciplinary action.

B. Categories and Criteria

Detailed descriptions of categories and penalties can be found in the MD Statewide Police Disciplinary Matrix. That matrix will be followed by all involved parties in all sustained complaints of police misconduct.

VI. Authority of the Sheriff

The Sheriff, or Chief Deputy when acting on behalf of the Sheriff, is authorized to promulgate and enforce such rules, regulations and procedures as deemed necessary for the efficient operation and government of the Office of the Sheriff.

The Sheriff, or Chief Deputy when acting on behalf of the Sheriff, has final authority for disciplinary action involving sworn personnel for complaints originating from an agency employee. The County ACC has final authority for sustained complaints emanating from members of the public.

The Sheriff, or Chief Deputy when acting on behalf of the Sheriff, has the authority to dismiss an employee from employment, or to suspend an employee without pay for up to thirty (30) days.

Consistent with the MD Statewide Police Disciplinary Matrix, the Sheriff or Chief Deputy may administer any form or combination of punishment authorized by this directive or by the personnel rules of the Queen Anne's County Government for sustained complaints originating from an agency employee.

VII. Role and Authority of Supervisors

A. Role of Supervisors

The role of supervisors, especially first-line supervisors, is crucial in the disciplinary process. First-line supervisors have the best opportunity to observe the conduct and appearance of deputies and detect those instances when corrective or counseling actions are warranted such as remedial training. First-line supervisors also have the opportunity to understand the personality traits of the personnel under their supervision and to determine the most effective methods of counseling. Any observed or sustained violations of policy or law shall be considered in employees' evaluation scores.

B. Authority of Supervisors

1. Supervisors and Commanders, actual or in an acting capacity, are authorized to:

- Counsel employees
- Recommend and/or conduct retraining of employees
- Investigate complaints of employee misconduct, subject to approval and review by the Chief Deputy or designee.
- Offer and impose summary punishment, upon concurrence of the Sheriff and Chief Deputy or designees for sustained complaints from agency employees.
- Effect emergency suspension of employees
- Serve as members of administrative hearing boards/trial boards

VIII. Emergency Suspension

A. Administrative Suspension

1. **Emotionally Unfit for Duty** Supervisors may suspend an employee on an emergency basis with pay in the light of evidence that the employee is emotionally or psychologically unfit for duty. This is an administrative action as opposed to a punitive action

2. **Death or Serious Injury Cases**

When an employee's actions cause death or serious physical injury, the employee will be temporarily relieved from line duty, placed on administrative leave with pay and offered traumatic counseling while pending administrative review of the incident (See Index Code 401).

B. Punitive Suspensions

Supervisors may suspend from duty with pay on an emergency basis any employee who:

1. Refuses to obey a lawful order of a supervisory officer, or
2. Engages in conduct such that it is in the best interest of the employee, the agency, or County government that they be temporarily suspended from duty.

C. Payroll Status

Employees suspended on an emergency basis will be suspended with full pay and benefits until the Sheriff or Chief Deputy changes their payroll status. The Sheriff or designee may impose an emergency suspension with or without pay if it is determined that such a suspension is in the public's best interests. A suspension without pay may not exceed 30 days. A sworn officer who is suspended without pay is entitled to receive back pay if the County ACC determines that charges are not warranted in that case or, if the original complaint originated from an agency employee, the Sheriff or Chief Deputy can make that determination. The Sheriff, Chief Deputy or their designee shall terminate the employment of a sworn officer who is convicted of a felony. A sworn officer may be terminated if they:

- 1.) Receive probation before judgement for a felony, or;
- 2.) Are convicted of a misdemeanor committed in the performance of their duties as a sworn officer, or;
- 3.) Are convicted of misdemeanor second degree assault, or;
- 4.) Are convicted of a misdemeanor involving dishonesty, fraud, theft or misrepresentation.

D. Follow-Up Actions for Punitive Suspensions

If the emergency suspension was made for disciplinary reasons the following rules apply:

1. A sworn member subjected to emergency suspension for disciplinary reasons is required to report to their division commander immediately following the suspension, unless directed otherwise.

2. Whenever a supervisor imposes an emergency suspension, he/she will promptly submit a Complaint against Personnel Report to the Chief Deputy or designee, via the chain of command, setting forth the justification of the suspension. If the suspended employee is not under the supervision of the suspending supervisor a copy of the report will be forwarded to the employee's supervisor. An internal investigation shall be initiated if warranted.

3. The Sheriff shall be notified as soon as practically possible of the emergency suspension and internal complaint.

4. Any employee so suspended is entitled to a prompt hearing before a ranking officer as designated by the Sheriff or designee. The purpose of the hearing is to determine whether the suspension should be continued, and if so, whether it will be with or without pay.

E. Sworn officers may be required at any time to submit to testing for alcohol and or drugs/CDS, polygraph screening or interrogations. The refusal to submit to any of these may result in punitive actions up to and including termination. These tests are not discoverable in any possible criminal proceedings that might arise against the employee.

IX. CALEA References: 26.1.4

X. Proponent Unit: Internal Affairs

XI. Cancellation: This directive cancels Index Code 302 dated 3/25/2022.

Sheriff Gary Hofmann