

Disciplinary Process

Index Code: 302

Effective Date: 09/15/08 (Revised 7/14/2017)

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. Deputies must be free to exercise their own judgment and take enforcement 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 deputies 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 a deputy 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 not made a part of the employee's personnel record, unless documented in written form.

Hearing Board – Any board formed in compliance with the Law Enforcement Officers Bill of Rights to hear formal charges brought against a deputy.

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. For disciplinary purposes under the Law Enforcement Officers Bill of Rights (LEOBR), the term "law enforcement officer" does not include an officer serving in a probationary status except when allegations of brutality in the execution of duties are made.

LEOBR – The Law Enforcement Officers Bill of Rights (Maryland Code, Article 27, Section 727-734, as amended).

Non-Punitive Transfer – The Sheriff has the authority "to regulate the competent and efficient operation and management of a law enforcement agency 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." Maryland Code, Article 27, Section 728c.

Probationary Status – A law enforcement officer is on probationary status for two years from the date of hire for lateral transfers and from the date of graduation from the police training academy for all others.

Summary Punishment – Punishment imposed by the highest ranking officer of the unit to which the deputy is assigned. Summary punishment may not exceed three (3) days suspension without pay or a fine of \$150.00 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 his/her right to a hearing provided by the law enforcement Officers Bill of Rights; 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 in the administration of disciplinary action.

B. Categories and Criteria

The following are criteria for progressive disciplinary action alternatives. The description for each category is intended to provide guidance to supervisors in the administration of disciplinary action, but is not binding on the supervisor or the agency. This directive does not require or imply a required sequence of punitive actions. More specific guidance for particular acts may be found elsewhere in the manual (Example: Departmental accidents, etc.)

1. Documented Verbal Reprimand

Employee misconduct which warrants more severe disciplinary action than counseling and/or training, but less than that which is described below, may be resolved by documenting a verbal reprimand. Documented verbal reprimands are noted in the formal files of the agency.

2. Written Reprimand/Reassignment

If an employee's misconduct is part of a continuing pattern of behavior involving repeated acts of misconduct or mistakes, a written reprimand may be issued, or the employee may be reassigned. Such actions are noted in the formal files of the agency.

3. Demotion, Fines, Loss of Leave and Suspension without Pay

This level of disciplinary action is appropriate in the following situations (Corrective action of this magnitude is noted in the formal files of the agency):

a) The employee has deliberately or flagrantly violated a directive, law, regulation, rule, procedure or standard of conduct.

b) The employee's conduct impairs the achievement of the agency's mission or brings the agency into disrepute.

c) The employee's conduct represents a continuing pattern of disregard for the rules, regulations, and standards of conduct required of law enforcement officers.

d) In cases where lesser applications of disciplinary action have failed to correct the employee's conduct.

4. Dismissal

If progressive discipline fails, or the employee's misconduct warrants disciplinary action greater than that described above, the employee may be dismissed from employment.

VI. Authority of the Sheriff

The Sheriff, or Undersheriff 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 Undersheriff when acting on behalf of the Sheriff, has final authority for disciplinary action involving sworn personnel (within the requirements of the Law Enforcement Officers' Bill of Rights and Queen Anne's County Code).

The Sheriff, or Undersheriff when acting on behalf of the Sheriff, has the authority to dismiss an employee from employment, or to suspend an

employee without pay for longer than thirty (30) days.

Consistent with the Law Enforcement Officers Bill of Rights, the Sheriff or Undersheriff may administer any form or combination of punishment authorized by this directive or by the personnel rules of the Queen Anne's County Government.

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 disciplinary actions are warranted (remedial counseling, remedial training or punishment). 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 discipline.

B. Authority of Supervisors

1. Corporals and Sergeants, 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 their division commander
- Offer and impose summary punishment, upon concurrence of their division commander
- Effect emergency suspension of employees
- Serve as members of administrative hearing boards

2. In addition to the authority granted above under B. 1. Lieutenants and above are authorized to:

- Offer and impose punishment in excess of the provisions LEOBR summary punishment, when authorized by the

Undersheriff, up to but not including dismissal

- Chair administrative hearing boards
- Rule complaints against deputies as unfounded when a suitable investigation determines the complaint to be malicious, baseless, deliberately false or frivolous. In such cases, the circumstances will be documented and forwarded to the Undersheriff.

VIII. Emergency Suspension

A. Administrative Suspension

1. Emotionally Unfit for Duty

Supervisors may suspend an employee on an emergency basis 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 (See Index Code 306 for details of the "emotional fitness for duty" evaluation process).

2. Use of Force Cases

When a sworn deputy's use of force causes death or serious physical injury, the deputy will be relieved from line duty pending administrative review of the incident (See Index Code 401 for details concerning use of force).

B. Punitive Suspensions

Supervisors may suspend from duty 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 he/she 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 changes their payroll status.

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 affects an emergency suspension he/she will promptly submit a Complaint against Personnel Report to the Sheriff, 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.

3. The Sheriff will review the report and forward it to Internal Affairs for follow-up investigation and processing.

4. Any deputy so suspended is entitled to a prompt hearing before a ranking officer as designated by the Sheriff. 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.

IX. Fines and Payment Procedures

A. Employee's Responsibility

All disciplinary fines must be paid by check or money order, made payable to the Queen Anne's County Sheriff's Office, and submitted to the Undersheriff for deposit.

B. Undersheriff's Responsibility

The Undersheriff will have a receipt forwarded to the individual paying the fine, and have the collected fine deposited into the proper government account.

X. CALEA References: 1.3.8, 26.1.4 & 26.1.6.

XI. Proponent Unit: Internal Affairs

XII. Cancellation: This directive cancels Index Code 302 dated 6/27/16.

Sheriff Gary Hofmann