



SYKESVILLE POLICE DEPARTMENT

Disciplinary Procedures

General Order 2-14

Effective: 07/14/17

Authorized By: *Michael A. Spaulding* Chief of Police

I. PURPOSE

To provide policy and procedures for the fair and impartial handling of disciplinary matters.

II. POLICY

The Sykesville Police Department shall provide a disciplinary system governing all employees consisting of rules, regulations, and procedures of accountability.

III. PROCEDURES

A. Code of Conduct and Appearance

The code of conduct and appearance for Police Department employees is in the form of Rules of Conduct (G.O. 2-2). These rules of conduct specify both required and prohibited conduct by employees and are preceded in this manual by both the Canons of Police Ethics and the Law Enforcement Code of Ethics as adopted by the International Association of Chiefs of Police.

B. Personal Appearance and Grooming

It is the policy of the Police Department that all personnel maintain a neat, clean and well-groomed appearance at all times. As stated in rule 25-0 of the Rules of Conduct, personnel of the Police Department shall be held to the following set of standards.

1. Male Personnel

- a. Hairstyles for all male personnel shall not extend below the top of the shirt collar in the rear and shall not have any side growth beyond mid ear.
- b. Sideburns with limitations are permitted. The length may extend down to a point straight and level with the lowest part of the ear lobe. The width of the sideburns shall be no more than one and one half (1½) inches, with the edges parallel without being flared. Sideburns are to be kept neatly trimmed at all times and shall not be bushy or shaggy in appearance.
- c. Mustaches must be neatly trimmed with the growth limited to one quarter (1/4) inch beyond the corner of the mouth, both vertically

and horizontally. The ends of the mustache shall not be waxed or twisted.

- d. Beards and goatees are not permitted.

2. Female Personnel

- a. Hair style for female uniformed personnel shall be neat in appearance and shall be arranged in such a style so as to prevent any hair from extending below shoulder length.
- b. Female employees are limited to one earring per ear when on duty. Earrings will be post-style only, located in the lower ear lobe, and will not be allowed to dangle or hang down.

3. General Rules

- a. Gaudy, excessive, outlandish or offensive jewelry of any kind shall not be worn while in uniform by any member of the Office.
- b. The Chief may prohibit the wearing of bracelets, earrings, and other jewelry (excluding medical alert identification), while on duty should it detract from the professional appearance of the employee, or should it constitute a safety hazard.
- c. No necklaces will be worn which show when wearing uniforms. Authorized t-shirts may show.
- d. No visible tattoos will be displayed on the face, neck, head or hands (as per G.O. 2-4).
- e. After June 13, 2014 sworn personnel will not be permitted to display any tattoos while in uniform. Those employees with existing tattoos will be granted a waiver to this specific section.
- f. Intentional body mutilation, piercings, branding, or intentional scarring that would be visible while on duty is prohibited.
- g. Dental ornamentation is prohibited.

4. Exceptions

Personnel assigned to duties which require an inconspicuous appearance may be exempted from the provisions of this order upon approval by the Chief.

5. Uniform and Equipment Regulations

- a. Records of all uniforms and equipment purchased for and issued to members of the Office shall be maintained by the Department. All members of the Office shall be held strictly accountable for the proper care, use and maintenance of all articles, uniforms, and equipment issued to them. Uniforms and equipment shall only be worn or used in accordance with Police Department regulations. The Office reserves the right to inspect any equipment owned by the Town, i.e. desks, lockers, vehicles, etc. at any time. Reimbursement for lost property is the responsibility of the individual at a cost determined by the Chief.
- b. All employees shall maintain all uniform and equipment in neat order and in good repair at all times. The uniform shall at all times be worn in compliance with Office Policy. Employees shall be neat and well-groomed at all times while in uniform or representing the Police Department.
- c. In the normal course of business, personnel will be required to wear the issued uniform and equipment; however, supervisors may prescribe other clothing and/or equipment as necessitated by the specific nature of the duty to which an individual is assigned.
- d. Civilian clothing worn by members of the Police Department during a tour of duty shall conform to the standards normally found in private business. The Chief may prescribe other types of clothing as is deemed necessary. All articles of clothing worn while on duty shall reflect a positive image of the Office.
- e. Claims for damage to clothing, uniforms and/or equipment resulting from the performance of duty shall be directed in memo form to the Chief through the chain of command.
- f. Personnel of the Office shall immediately report by memo to the Chief through the chain of command any loss or damage to Town property issued to them.
- g. Personnel shall immediately report to their supervisor any defects or potentially hazardous conditions found in any equipment or property used by them.
- h. Personnel shall not attend any Court in any jurisdiction for the purpose of testifying or appearing as a defendant attired in any part

of the uniform if the purpose of their attendance does not relate to acts which occurred in the performance of official duties.

- i. No personnel shall wear any part of the uniform while off duty and not performing an official act for the Police Department with exception of Approved Secondary Employment.

C. Regulations have been established in accordance with Rules of Conduct governing the following areas:

1. Gratuities (Rules of Conduct #9.0)

- a. As employees of the Sykesville Police Department and public servants to the citizens, it is incumbent to maintain the highest degree of professionalism and impartiality. The acceptance of gratuities in any form is detrimental to the public trust and the integrity of the Police Department and contrary to the Code of Ethics.
- b. It shall be the policy of the Sykesville Police Department that the acceptance or solicitation of gratuities in any form shall be strictly prohibited by all personnel.
- c. In the event an establishment continues to offer any form of gratuity after having been advised that they are not acceptable, personnel shall inform their immediate supervisor. The Chief will then notify the establishment in writing that this practice is prohibited.
- d. The Chief shall maintain a copy of this notification.
- e. If any establishment continues to offer any form of gratuity after having been formally notified in writing of the prohibition, personnel shall again notify their supervisor. The supervisor shall immediately notify the Chief. The Chief shall then issue a Special Order to all personnel indicating that the involved establishment shall be off limits to all personnel during assigned tours of duty. The Chief shall also notify the establishment in writing of his decision.

3. Employee Contact Information (Rules of Conduct #13-9)

- a. To provide a point of contact for all employees while on and off duty, Police Department employees are subject to 24 hour call and shall therefore be required to maintain residence telephones and/or cellular telephones in operating order.

- b. All employees are required to maintain a telephone at their place of residence or possess an activated cellular telephone in working order with the number made known to the Office.
- c. Whenever an employee's residence or cell phone number is changed the employee shall submit notification of the new number in writing to their supervisor and/or the Administrative Assistant immediately.
- d. Supervisors shall forward all changes as they occur through the chain of command to the Administrative Assistance or Chief of Police for revision to the master list.
- e. A current employee contact list will be maintained at the following locations:
 - (1) Chief of Police
 - (2) Administrative Assistant
 - (3) Patrol Supervisors
 - (4) Town House
- f. Employees' personal telephone numbers are not to be given to anyone other than verified Police Department staff. Personnel telephone numbers are for Office use only.

4. Political Activity (Rules of Conduct #10-0)

- a. No member of the Police Department shall participate in any type of political activity of any kind while on duty or in uniform.
- b. No member of the department will use their position to persuade or encourage any person to vote for any political candidate or show preference to any political party.
- c. So as not to give the public the impression that the Office endorses or promotes a certain activity, political candidate or cause, members of the Office are prohibited from using an department vehicle while engaged in political activities such as setting up signs, attending rallies, caucuses, promotional events, fund raisers, etc. Furthermore, no bumper stickers, decals, insignia, banners or placards of any type may be attached to or carried in any Police Department vehicle.
- d. Members of the department who desire to run for any political office should confer with the Board of Elections or other

competent authority in determining any real or potential conflicts between the member's existing office and the one being sought.

- e. The Hatch Act, 5 U.S.C., prohibits certain partisan political activity by an employee of a government agency if that employee's principal employment is in connection with an activity which is financed in whole or in part by loans or grants made by the United States.
- f. This law does not apply to an individual who exercises no functions in connection with the federally financed activity and does not apply to an individual employed by a system which is supported in whole or in part by a state or political subdivision.
- g. The prohibited activities covered in the Hatch Act are similar to those which are covered in sections a. through d. above. If Employees are working on, for, or under a federally funded project, they may be covered by the provisions of this act and should check before engaging in any activity of a political nature.

D. Distribution of Rules of Conduct

- 1. All Police Department employees will have access to the Police Department Rules of Conduct. These Rules of Conduct will be maintained in the PowerDMS under General Order 2-2.
- 2. It shall be each employee's responsibility to read, understand and comply with all Rules of Conduct, Office Regulations, Policies and Procedures, and laws and ordinances.
- 3. Documented training on the Rules of Conduct will be included as part of orientation and Field Training process, with the employee's signature of understanding and compliance recorded in the training file.

E. Disciplinary System

The Police Department provides a structured disciplinary process to be followed in cases of alleged or suspected violations of Office rules, regulations, orders, law or ordinances. This process insures the prompt and thorough investigation of complaints to clear the innocent, establish guilt where indicated, and facilitate fair and consistent disciplinary action.

F. Remedial Training

Supervisors shall be responsible for developing and conducting in service orientation and annual training for Police Department employees. Training shall

be designed to further the employee's knowledge and understanding of proper and effective law enforcement and techniques. The training is intended to promote positive and constructive techniques for improving employee productivity, effectiveness and morale. The department provides remedial training for employees in areas of special concern and where it is indicated an employee requires training as instruction to correct deficiencies in performance.

G. Counseling

1. It shall be the policy of the Sykesville Police Department to document superior and/or deficient performance of subordinates and to utilize the Counseling Report (SPD Form #74) for performance evaluations. The purpose of this policy is to provide a standardized mechanism, i.e. Counseling Report, so that Supervisors may document superior and/or deficient performance and receive feedback from subordinates.

2. Issuance Procedure

The Counseling Report (SPD Form #74) is designed for use by a Supervisor in those instances when he/she deems it necessary to counsel and correct a subordinate for minor infractions of Rules and Regulations, Policy or Procedures, Poor Performance, or recognition of those personnel whose performance is exceptional or exemplary.

3. The following procedure will be followed when the decision is made to use the Counseling Report:

- a. A Supervisor will complete a Counseling Report as soon as possible after the initial receipt of information or observation.
- b. The Supervisor will summarize the performance issues and the reason for the Counseling Report. The Supervisor will comment in the space provided.
- c. As soon as possible after the completion of the report the Supervisor will schedule a time in private to meet with the employee and discuss the matters addressed.
- d. The employee will be given an opportunity to review, comment on the issues, sign and receive a copy of the Counseling Report.
- e. The Supervisor who issued the Counseling Report will give one copy to the employee, maintain a copy for the Supervisor's records, and forward a copy to the Chief of Police, for review.

- f. If the Supervisor issues a Counseling Report for a member who reports to another Supervisor, he/she will forward the Supervisor's copy to the affected Supervisor.
- g. The Supervisor's copy will be retained for a period of one year. Supervisors will use the Counseling Reports to support evaluations and validate related ratings.
- h. Chief of Police shall review all Counseling Reports and take any action deemed appropriate.

H. Formal Disciplinary Action

- 1. Discipline will generally be administered in a progressive fashion from least severe to most severe. The seriousness of the incident; circumstances surrounding the incident; employee's past disciplinary record; employee's past work performance; overall negative impact on the organization; and the prognosis for future similar problems will all be taken into consideration in the administration of discipline.
- 2. When employees breach rules of conduct, management must take disciplinary corrective action. The discipline applied must be in a consistent and equitable manner.
- 3. The Disposition Matrix ensures that similar violations receive similar penalties. The Matrix in this chapter includes most but not all, possible charges, which may arise out of violations of any Sykesville Police Department Rules and Regulations or other orders. The matrix guidelines are to be used as a guide only and may be adjusted depending on factors present in each case. A copy of the Matrix can be found on the PowerDMS, under "charts."
- 4. When assessing discipline, it is important not to focus on a single factor, but also consider other influential factors that may raise or lower the original category to another level. These factors include but are not limited to:
 - a. type of incident
 - b. injury severity
 - c. amount of damage
 - d. intent
 - e. employee record and performance level
 - f. level of discipline currently applied in similar cases
- 5. Recommendation for disciplinary action may be based on:
 - a. mitigating and / or aggravating factors

- b. employee motive
- c. degree of culpability
- d. truthfulness
- e. disciplinary record
- f. admission of error / mistake by employee
- g. other factors rising from the case

6. Description of Categories

- a. Misconduct is classified into broad categories of violations based on progressive degrees of severity.
- b. Category "A" defines the lowest level of misconduct, Category "E" the highest.
- c. Repetition of similar misconduct or violations of more serious offenses will lead to higher penalty categories of "B," "C," "D," or "E"

7. Category "A" Violations

- a. Category "A" - minor rules violation, Formal Counseling.
- b. Same or similar misconduct within 12 months enhances next violation to Category "B".
- c. Combination of any three Category "A" violations within 12 months enhances that third violation to Category "B".

8. Category "B" Violations

- a. Category "B" - minor violations. Written reprimand, and / or suspension of vehicle take-home privilege for 30 days, and / or \$75 fine.
- b. Preventable departmental collisions with any loss or damage to property or vehicle.
- c. Enhanced violation from Category "A".
- d. Same or similar misconduct within 36 months enhances next violation to Category "C".
- e. Combination of any three sustained Category "B" violations within 36 consecutive months enhances the third violation to category "C".

9. Category "C" Violations

- a. Category "C" - Misconduct violations. Loss of leave / suspension for 1 to 3 days, and / or suspension of vehicle take-home privilege for at least 30 days, and / or fine of \$100 to \$ 150.
- b. Enhanced violation from Category "B".
- c. Same or similar misconduct within 60 months enhances next violation to Category "D".
- d. Combination of any three sustained Category "C" violations within 60 consecutive months enhances the third violation to Category "D".

10. Category "D" Violations

- a. Category "D" - Misconduct violations. Loss of leave / suspension for 4 to 15 days, and / or suspension of vehicle take-home privilege for at least 30 days, and / or ineligible for promotion for eighteen (18) months and / or a fine of \$200 to \$250.
- b. Enhanced violation from Category "C".
- c. Combination of any sustained Category "D" violations within 60 consecutive months enhances the third violation to Category "E".

11. Category "E" Violations

- a. Category "E" - Serious Misconduct. Over 15 days loss of leave /suspension and / or suspension of vehicle take-home privilege for at least 30 days, and / or demotion and / or ineligible for promotion for 24 months and / or a fine of \$500 or termination of employment.
- b. Enhanced violation from Category "D".
- c. Violations not referenced in matrix - Violations of any other provisions of any other rules or regulations not referenced in the Matrix shall be a category "A" offense, unless extenuating circumstances exist where strict adherence would render an injustice to either the Sykesville Police Department and / or the employee. If exception is noted, then variation from the matrix is only permissible when authorized by the Chief of Police.

- d. Before applying any type of disciplinary procedures, it is important that employees be fully aware of all rules and regulations affecting their immediate work environment. The rules must be clear, concise, and provide forewarning that failure to adhere to the rule will result in disciplinary action. The rule should reasonably relate to the orderly operation of the unit. The employee should be fully aware of the rule and be provided with a copy.
- e. Upon conclusion of any necessary investigative measures, if it is apparent that an employee is guilty of a rule violation and disciplinary action is appropriate, the level of discipline to be administered will be in accordance with the following

12. Types of Discipline

a. Written Formal Counseling

Written formal counseling may be taken for minor performance related issues in conformance with procedures outlined in Section G of this General Order. These actions are intended to provide corrective discipline and written documentation for evaluation purposes. Individual counseling statements will not be placed in an employee's personnel file with exception to matters that become supporting documentation to a higher level of discipline required in an appeal process. Counseling is considered non-disciplinary action.

b. Written Reprimand (SPD Form #180)

- (1) If an employee's level of misconduct is more serious than counseling can address, or is of a continuing nature or pattern of misconduct, the employee as a general rule may be reprimanded.
- (2) Reprimands will contain charges specifying the rule violation and a description of the conduct that constituted the rule violation.
- (3) Reprimands will be made part of the employee's personnel file for the evaluation period.
- (4) Written reprimands serve to document the employee's rule violation and provide a written warning. It is important that the document contain such information as the rule violated, the facts concerning it, the time, date and names of other persons or witnesses who may be involved. The

document should be clearly labeled as a written reprimand and should point out that further reoccurrence may result in more severe discipline being taken. A copy is to be given to the employee and copies forwarded to Chief of Police, filed in the employee's personnel file, and in the Internal Affairs Files. Written reprimands will only be issued in accordance with the Law Enforcement Officers Bill of Rights and Sykesville Police Department Rules and Regulations.

- c. Suspension, Fine, Loss of Leave, Denial of Increment, Demotion
- (1) If an employee's misconduct is considered at a level of seriousness, or is part of a continuing pattern of behavior involving repeated misconduct, the employee may be disciplined at this level in accordance with applicable Department regulations, and Law Enforcement Officers Bill of Rights.
 - (2) If the action determined appropriate is outside the scope of a supervisor's authority, the supervisor will make the appropriate recommendation to the Chief of Police.
 - (3) If the employee is guilty of an offense such that it significantly impedes the employee's ability to perform or continue to perform at the current level and grade, the employee may be demoted in grade in accordance with applicable regulations and requirements.
 - (4) These actions will be made part of the employee's personnel file for the evaluation period.
 - (5) Officer's Fines and Suspension Without Pay are governed in accordance with the Law Enforcement Officers Bill of Rights. This discipline may be imposed because of misconduct, negligence, inefficiency, insubordination, or other reasons satisfactory to the individual(s) authorized to impose the suspension or fine.
 - (6) Involuntary Demotion may be appropriate where an employee demonstrates an inability to perform at the higher level but has shown ability to perform at the lower level. Factors to consider are length of service, previous disciplinary record, training received, length of time in current position, and work performance.

- d. Dismissal on Probation only applies to employees serving a probationary period. During this time the employee is instructed in how to perform the job and what standards of conduct are expected. The employee is carefully evaluated to determine ability to perform in an efficient manner. If the employee has demonstrated, after proper training and counseling, an inability or unwillingness to perform the duties, rejection on probation must be imposed. Supervisors must document the employees unsuitability for the position for later use where needed.
- e. Dismissal
 - (1) Dismissal is the most serious sanction which can be imposed. It should not be taken lightly and should only be administered under normal circumstances, if prior efforts of behavior modification through other means have failed or if the conduct is such that any lesser form of action would be inappropriate.
 - (2) If an employee's misconduct is of a level of seriousness that continued employment is no longer appropriate or is part of a continuing pattern of behavior involving repeated serious misconduct; or if the employee's performance is considered not productive, or not suitable to the assigned level, the employee may be dismissed in accordance with applicable guidelines.
- f. Emergency Suspension
 - (1) The Police Department must enforce discipline and will initiate disciplinary action for violations of the Rules and Regulations. Emergency suspensions shall be imposed when it appears that the action is in the best interest of the public and the Police Department and/or Town.
 - (2) Emergency suspension is a tool available to supervisory personnel used to avoid delay and cope with disciplinary problems of magnitude. The supervisory level having the authority to impose emergency suspension shall be a Sergeant or higher.
 - (3) To suspend an employee on an emergency basis, the supervisor shall take the following steps:

- i. Notify members verbally of their suspension and relieve them of their equipment, i.e. weapon, key, badge, identification cards.
 - ii. Issue the member a formal suspension letter.
 - iii. Prepare a Complaint Against Personnel Form including statements of witnesses. Copies of the report will be forwarded to the Chief.
- (4) Any employee suspended from duty will be notified of a date, time and location for a Suspension Review, to determine whether the suspension will be continued or terminated. The Suspension Review will be held no later than three days following the suspension from duty exclusive of weekends and holidays.
- (5) The Suspension Review is not a judicial proceeding. The Suspension Review is limited to the presentation of the circumstances surrounding the suspension of the employee, in order to determine whether such circumstances warrant continued suspension. When the acts alleged to have been committed by a suspended employee are of such a serious nature that, in the judgement of the Chief of Police, the interests and welfare of the public, the office, or the individual are best served by the continued suspension.
- (6) Suspension Reviews will be recorded and the recording will be maintained by the Chief of Police. Suspended employees may, if they so desire, be accompanied by Counsel; however, only matters dealing directly with the determination of the suspension will be heard.
- (7) Suspended employees will have the right to present testimony in their own behalf.
- (8) The Chief of Police will determine what testimony will be heard relative to the purpose of the review. The Chief of Police or the Suspension Review Officer may request legal assistance at any review.
- (9) Suspension Reviews are not public hearings. Neither members of the general public, nor the news media, will be admitted to such reviews unless called upon to testify in matters relating to the purpose of the review.

(10) Based on the statements presented, the Chief of Police will make one of the following recommendations:

- i. The suspension was not justified and the employee should be returned to duty. (The period of suspension will be with pay).
- ii. The suspension was justified but the employee should be returned to duty. (The period of suspension will be with pay).
- iii. The suspension was justified and the employee should not be returned to duty. (The period of suspension will be with pay pending final disposition of charges).
- iv. Suspension from current assigned duties was justified. However, the employee may be assigned other duties in the Police Department pending final disposition of the charges. (The period of suspension may be without pay if the employee has been charged with the commission of a felony.)

(10) The Chief, upon reviewing the recommendations may accept, reject, or modify the recommendation. Once the Chief has decided, he will inform the Employee.

g. Administrative Leave

- (1) When in the course of an investigation of an employee, the Chief decides that the employee must be placed on administrative leave, the Chief will so order. The period of leave will be with pay. When ordering such leave the Chief will inform the Employee.
- (2) The Chief will issue the employee a formal Personnel Order and relieve the member of his/her equipment, i.e., weapon, key, badge, identification cards.

h. Disciplinary Dispositions

The following are classifications provided for final disposition of employee misconduct:

- (1) Sustained: The accused employee committed all or part of the alleged acts of misconduct.

(2) Not Sustained: The investigation failed to produce sufficient evidence to prove clearly or to disprove the allegation.

(3) Unfounded: The alleged act did not occur.

i. Disciplinary Notifications

(1) Investigative procedures are outlined under General Order 2-16 through 2-17 of the Internal Affairs policies. Those investigative procedures require certain notifications to officers under the Law Enforcement Officer Bill of Rights. The disciplinary process does not replace in any manner the process of those notifications. The disciplinary process addresses notifications required following the investigative process.

(2) On determination that disciplinary action is required the charging supervisor will insure the following forms/notifications, where applicable, have been or are made:

Notification of Charges (SPD Form #181)

Complaint Against Personnel (SPD Form #176)

Probationary Officer Disciplinary Action (SPD Form #182)

Acceptance of Disciplinary Action (SPD Form #183)

Summary Punishment (SPD Form #185)

H. Supervisory Role

The Role of the Supervisor in the disciplinary process is as follows:

1. To observe the conduct and appearance of personnel and detect those instances when commendations or disciplinary actions are warranted.
2. To investigate allegations of employee misconduct when within the scope of their authority and responsibility.
3. To recommend the most effective methods of discipline, taking into consideration the behavior history, circumstances, and personality traits of the personnel under their supervision.
4. To implement the type of disciplinary action approved by the Chief at the level authorized.

I. Levels of Supervisory Authority

1. Disciplinary actions will be administered in accordance with applicable guidelines. When the necessary action is outside the scope of the supervisor, the supervisor will make specific recommendations for action to higher authority.
2. The maximum levels of supervision authorized to take specific actions are as follows:
 - a. Corporal and above
 - (1) Counseling
 - b. Sergeant and above
 - (1) Emergency suspension with pay pending review by higher authority
 - (2) Written Reprimand (civilian staff actions only)
 - c. Chief of Police
 - (1) Written Reprimand
 - (2) Probation Termination
 - (3) Suspension without pay
 - (4) Demotion
 - (5) Fine
 - (6) Dismissal

J. Notice of Dismissal

1. If an investigation of employee misconduct results in dismissal, the employee shall receive written notice which includes the following information:
 - a. A statement citing the reason for dismissal (charges);
 - b. The effective date of dismissal;
 - c. A statement of the status of fringe and retirement benefits after dismissal;
 - d. A statement as to the content of the employee's personnel record relating to the dismissal; and
 - e. Notice of appeal rights.
2. These provisions do not apply to entry level probationary employees except in instances of brutality.

K. Conclusion of Disciplinary Process

1. In accordance with Section 12 (h) of this General Order – Disciplinary Dispositions," at the conclusion of the disciplinary process the Supervisor taking action will review the matter to insure all participants in the process have been informed of the following as needed:
 - a. Proper Conduct
 - b. Improper Conduct
 - c. Policy Failure
 - d. Insufficient Evidence
 - e. Unfounded Complaint
2. This review is important as it provides input to the Office to identify needs for changes or review of policies, procedures, and rules and regulations that may prevent future allegations of misconduct as well as the need to modify or expand training.

L. Maintenance of Records

1. Internal Affairs records will be maintained as provided in General Order 2-16 through 2-17.
2. Written records of disciplinary actions will be maintained as follows:
 - a. Counseling Statement - Employee and Supervisor

Counseling statements are maintained for the evaluation period.
 - b. Written Reprimand and above - Employee and Personnel File

Disciplinary actions placed in Internal Affairs files will be maintained indefinitely unless specified otherwise on the personnel action or removed by authorization of the Chief.
3. Disciplinary files will be maintained by the Chief of Police, in a secured area within the Office. Access to disciplinary actions are restricted to the employee; to others on approval of the employee by signed release authorization; and the Chief of Police; immediate supervisors on an as needed basis; and Court Order.

M. Appeal Procedures

1. Law Enforcement

- a. Appeal procedures and hearings for personnel are governed by the Law Enforcement Officers' Bill of Rights, a copy of which is made part of this manual.
- b. Summary Punishment (SPD Form #185)
 - (1) Summary Punishment is punishment that may be imposed by a member of the Office holding the title of Chief of Police.
 - (2) Summary Punishment may be imposed for minor violations of the Police Department Rules and Regulations when:
 - i. The facts which constitute the minor violation are not in dispute.
 - ii. The officer waives his/her hearing before a Hearing Board
 - iii. The officer accepts the punishment imposed by the Chief of Police.
 - (3) Summary Punishment may not exceed three (3) days suspension without pay or a fine not to exceed \$150.00 administered at the authorized supervisory level.

N. Hearing Process – Law Enforcement

- 1. Administrative hearings are not to be confused with judicial proceedings. At an administrative hearing, a guilty verdict requires merely a preponderance of evidence. An attorney, or other person designated by the Chief, will present the circumstances of the alleged offense to the board. The admission of evidentiary materials and statements will be governed by the Law Enforcement Officers Bill of Rights. Members have the right to be represented by counsel of their choice.
- 2. In general, the process followed for hearings of sworn personnel shall be:
 - a. There will be no weapons permitted in the hearing.
 - b. Hearing board members shall be notified of the administrative hearing by memorandum from the hearing board chairman.

- c. The hearing will be conducted under the direction of the senior ranking member (chairman). The chairman will set the hearing, formally notify the accused, and summons witnesses as called for.
- d. The chairman shall call the hearing to order and advise the parties that the proceedings of the hearing will be recorded but not transcribed unless deemed necessary at a later date.
- e. The chairman shall inquire of the accused member if he/she has received a copy of the charges and specifications to be heard by the board. If the prosecution and defense are ready to proceed, each charge and specification shall be read unless waived, and the accused shall enter a plea to each charge.
- f. The chairman shall direct the prosecution to begin its case and shall instruct all present that all testimony under oath or affirmation is subject to the penalties of perjury.
- g. The chairman shall resolve issues as to the admissibility of any evidence.
- h. After completion of the prosecution's case, the chairman will direct the defense to proceed. Counsel will be advised of the appropriate time for presenting matters in mitigation or extenuation. Such matters may not be brought forward prior to the reaching of a verdict.
- i. Upon completion of arguments, the hearing room will be cleared and the hearing board will make an objective review of all evidence brought before the members, being careful not to prejudice the case as to the innocence or guilt of the accused.
- j. Each member will then make a determination of innocence or guilt as to each charge and specification and will inform the board members of their decision when requested to do so by the chairman. A majority shall decide the verdict on each charge and specification. All interested parties shall reenter the hearing room where the findings of each charge and specification shall be announced. The exact time of the clearing and recalling of all parties shall be noted in the record. If the accused has been found not guilty of all charges, the chairman shall announce the conclusion of the case and adjourn the hearing.
- k. In the event of a guilty verdict on any charge, the chairman will advise counsel that matters of mitigation or extenuation may be presented.

- l. At the completion of any matters in mitigation or extenuation, the hearing room shall be cleared and the chairman shall cause another vote to be taken as to the punishment. Voting will be finished when a consensus is developed. The parties shall be recalled to the hearing room. The exact time of the clearing and recalling of all parties shall be noted in the record.
- m. The chairman shall inform the parties of the judgment reached and that it will be forwarded to the Chief. An appropriate written report will be prepared by the chairman for the Chief within 72 hours. In the cases of a split decision by the hearing board in the rendering of a guilty verdict, the reasons for the dissenting opinion will be noted in the report. A copy of the report will be provided to the accused member or his defense counsel.
- n. Should termination be the recommendation of the hearing board, the chairman shall contact the Chief. The Chief shall notify the following that the accused is immediately suspended until the Chief makes his final determination:
 - (1) The accused
 - (2) The Patrol Supervisors
- o. If an officer has been charged according to the Law Enforcement Bill of Rights and is notified that an administrative hearing board will take place, and the officer refuses to appear, resigns, or otherwise fails to appear, the administrative hearing board may proceed in his/her absence. The results of the hearing board will be placed in the employee's personnel file.

O. Hearing Process - Civilian Personnel

1. Administrative Guidelines

- a. All time limits specified in this order are defined in terms of working days being Monday through Friday, with the exception of holidays as adopted by the town. In the interest of prompt resolution of employees' discipline each step in the process should be taken as rapidly as possible but not later than the prescribed time limit. In the event of extenuating circumstances, a time limit may be extended by mutual agreement of the parties at that step.
- b. If a hearing is scheduled during an employee's work hours, the employee may attend the hearing at no loss in pay. The employee

will not be paid (either straight time or overtime) if the hearing occurs during off duty hours. Hearings are scheduled by the supervisor at each step in the process, with written notice to the employee unless mutually agreed otherwise.

- c. Issues which have not been raised at Step 1 of the process may not be raised at Step 2 or 3.
- d. Employees shall have the right to appear with a representative of their choosing at any or all steps in the process.
- e. Failure of the employee to appeal to the next higher step within the specified time period will constitute a withdrawal of the appeal, and will bar future action by the employee with respect to issues of the disciplinary action at hand.
- f. Failure of a supervisor to respond to an appeal within the specified time period will permit the employee to proceed to the next step in the process within the specified time period.
- g. Employees may withdraw appeals at any time by written notice prior to completion of Step 3.
- h. All documentation concerning an appeal will become a part of the personnel record of the employee involved.
- i. There will be no weapons permitted in the hearing.

2. Procedural Steps

- a. Step 1: Supervisor
 - (1) If the employee is not satisfied with the action, the employee may request a hearing with and decision by the Chief of Police as appropriate to the level of discipline taken.
 - (2) The appeal must be presented in writing with justification within five (5) working days of the decision of action.
 - (3) Upon receipt of a request for a hearing, the Chief shall set a date, time and place, for such a hearing not less than five working (5) days nor more than ten (10) working days after receipt of the request, unless otherwise mutually agreed upon by both parties, and shall notify the employee thereof.

After the hearing, the Chief will advise the employee of his/her decision within ten (10) working days.

IV. CANCELLATIONS

This General Order cancels and replaces the following policies:

General Order 26.1, entitled Disciplinary Procedures, dated December 5, 2001.