



# COTTAGE CITY POLICE DEPARTMENT

## GENERAL ORDER

### SUBJECT: THE DISCIPLINARY PROCESS

### NEW REVISED RESCINDS

APPROVED: *GM*  
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ACTING CHIEF OF POLICE

Effective Date 8/22/2018

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#### **I. POLICY**

The goal of the Cottage City Police Department's disciplinary system is to protect the integrity of the Department. In order for the system to work effectively, supervisory personnel will ensure that those Department members who they supervise comply with lawful orders they receive, and with established policies, procedures, rules and regulations.

The Department's disciplinary process will not be solely punitive in nature, but will also contain provisions for the use of counseling as a function of discipline, and remedial training as a function of discipline, when either or both are deemed appropriate for the infraction committed or the particular circumstances.

Any conflict or discrepancy between the Department's policies and procedures and the Law Enforcement Officers' Bill of Rights (LEOBR) will be resolved in favor of the LEOBR.

#### **II. COUNSELING AS A FUNCTION OF DISCIPLINE**

##### A. Verbal Counseling

1. Occasionally, a minor infraction is committed for which counseling may be more appropriate as a function of discipline than the placing of formal Administrative charges.
2. Because appropriate counseling is not only educational, but also serves as a function of discipline, supervisory personnel should strive to correct

deficiencies through counseling (verbally or by using a Department Record of Counseling form) whenever the infraction is minor and it is believed by the supervisor that such counseling will have a positive impact.

3. Whenever possible, supervisors will counsel subordinates in private.

#### B. Supervisor's Remedial Action Form

1. The intent of the Supervisor's Remedial Action form is to provide supervisors with an instrument to document counseling and recommended corrective action for minor infractions.
2. The form is designed for use as a management tool in those cases initiated by a supervisor where counseling and corrective action are necessary and appropriate, but for which an entry into an employee's Personnel File is not necessary.
3. Instances when a supervisor may consider using the form include, but are not limited to:
  - a. Employee tardiness (not repeated);
  - b. Disruptive behavior in the office;
  - c. Failure to make timely radio responses;
  - d. Improper parking or driving a police vehicle; or,
  - e. Other minor infractions that should be immediately pointed out and corrected.
4. The form may also be used, at the discretion of the employee's supervisor, for minor citizen-generated complaints where, after initial inquiry, the supervisor determines the incident does not warrant taking formal disciplinary action, yet feels the incident should be documented and the behavior corrected through a positive supervisory approach.
5. For the form to be an effective supervisory tool, the supervisor must determine, after an initial inquiry (after listening to the complainant, through personal observation, or listening to comments from other employees, etc.) whether the incident, even if true, should be handled through the formal disciplinary process (or through the use of the Remedial Action Form.

This decision must be made prior to asking the officer for an explanation of the incident.

6. If the complaint comes from a citizen, the supervisor should advise the complainant that the complaint will be documented and investigated.
7. Completed in a timely manner, the form will provide a complete record of the incident including disposition from the supervisor.
8. When completed, the form will consist of one (1) original and one (1) copy.
  - a. The original should be retained by the supervisor as part of his/her supervisory files for one (1) year and then destroyed.
  - b. The copy should be given to the employee.
  - c. No copies are to be placed in the employee's Personnel File or, and under no circumstances will the form be completed without the employee being given the opportunity to review and make written comments concerning the incident, and sign the form.

C. The Record of Counseling Form

1. Because this form is an official record that will be inserted into an employee's file for a period of one (1) year (from the date of the incident), supervisors completing this form will be sensitive to the rights afforded an officer pursuant to the LEOBR.
2. A supervisor may complete this form instead of the Remedial Action Form, and when completed, the form will be discussed with the employee counseled, who will be requested to sign it before it is placed into the employee's file.

D. Supervisory Authority

1. When supervisors personally observe employee misconduct, they have the authority to exercise limited disciplinary action. Supervisors may counsel, issue verbal or written reprimands, issue emergency suspensions with pay, and offer recommendations for other violations/infractions.
2. It is recognized that some problems of a minor nature may be corrected through counseling or some other means, i.e., remedial training, etc.

Supervisors are permitted and encouraged to exercise their discretion in a fair and impartial manner in the determination of appropriate actions.

3. If the offense is of a more serious nature, the supervisor may conduct an investigation in accordance with the LEOBR and make a recommendation to the Chief. The Chief of Police may, if he does not agree with the findings of the investigator, choose one of several courses of action:
  - The Chief may review the case with the investigator to point out deficiencies of supportive facts.
  - The Chief may direct the investigator to continue the investigation.
  - He may require portions of the report to be rewritten because of non-supportive critical statements.
  - The Chief may issue his own comments or modifications to a disciplinary action recommendation or investigative report.
4. Each supervisor shall maintain an Employee Documentation File for each subordinate for the purpose of documenting commendations, performance and discipline. The information contained within this file is open to employee review.

### III. TRAINING AS A FUNCTION OF DISCIPLINE

#### Remedial Training

- A. Because infractions are sometimes committed unintentionally due to a member's unfamiliarity with a Department rule or procedure, supervisors will strive to identify those instances when training would be more appropriate as a function as discipline than the formal placing of charges.
- B. Depending upon the nature of the infraction committed, the Department may elect to utilize training in conjunction with formal disciplinary action.
- C. "Training" can be anything from a discussion held with the employee on a particular topic to a formal course of instruction. Because supervisors work closely with their subordinates and generally know their capabilities better, supervisors are usually the best judges of when a subordinate would benefit from remedial training.

- D. When a supervisor elects to utilize training as a function of discipline, the supervisor should:
1. Explain the infraction committed and the expected behavior;
  2. Review the rule, policy, or procedure that was violated;
  3. Consider discussing the infraction with all officers (without naming the offender); and if necessary,
  4. Recommend the need for further or more in-depth remedial training to the Chief.

IV. TAKING PUNITIVE ACTION

A. Procedures and Criteria

1. Only the Chief of Police (or person acting in the Chief's absence) will have the authority to administer discipline and/or suspend an officer from duty with or without pay.
2. Throughout these procedures, the rights of the individual police officer and citizen shall be acknowledged and shall not be compromised.
3. Where applicable, all administrative disciplinary procedures shall be consistent with the provisions of Public Safety Article §3-103 of the Annotated Code of Maryland (the LEOBR).

B. Required Action by Department Members

1. Each member of the Department shall assume the obligations of their rank and perform their duties accordingly in the investigation of complaints or allegations of misconduct.
2. Untruthfulness committed by any member of the Police Department is a very serious transgression and any member found guilty may be subject to dismissal, or other punishment as may be adjudged.

### C. Summary Punishment

1. Consistent with the provisions of the LEOBR, summary punishment may be imposed for minor violations of the Department rules and regulation when:
  - a. The facts which constitute the minor violation are not in dispute;
  - b. The officer waives the hearing provided under Public Safety Article §3-107 of the LEOBR; and,
  - c. The officer accepts the punishment imposed by the Chief of Police.
2. Summary punishment may not exceed three (3) days suspension without pay or a fine of \$150.00.
3. The offer of summary punishment will be presented to the officer in-writing and he/she will have the option of accepting or not accepting it.
4. If an officer is offered summary punishment imposed pursuant to the LEOBR and refuses, the Chief of Police may convene a one-member or more hearing board and the hearing board shall have only the authority to recommend the sanctions as provided by the LEOBR for summary punishment.
5. If a single member hearing board is convened, that member need not be of the same rank as the officer for whom the board was convened; however, all other provision of the LEOBR shall apply.

### D. Punishment Exceeding Summary Punishment Limits

1. If the Chief of Police decides that an appropriate punishment would exceed the limits of summary punishment, or the facts constituting the offense are in dispute, the Chief of Police will convene a hearing board of not less than three (3) members to hear the complaint(s) against the officer.
2. Hearing board members may be selected from this Department or from another law enforcement agency, provided:
  - a. None of the officers to serve on the board have had any part in the investigation or interrogation of the officer for whom the board was convened; and,

- b. Officers to serve on the board that are from another law enforcement agency have been approved by the Chief of the other agency.
- 3. At least one (1) board member shall be of the same rank as the officer for whom the board was convened.

**V. EMERGENCY SUSPENSION**

A. With Pay

- 1. Emergency suspension with pay may be imposed by the Chief of Police when it appears that the action is in the best interests of the public and the Department.
- 2. If an officer is suspended with pay, the Chief of Police may also suspend the officer's powers and reassign the officer to restricted duties pending the outcome of any pending criminal charges or final determination by an administrative hearing board as to any Departmental violation(s).
- 3. Any officer so suspended shall be entitled to a prompt hearing.

B. Without Pay

- 1. The Chief of Police may suspend an officer without pay if the officer has been charged with the commission of a felony.
- 2. Any officer so suspended shall be entitled to a prompt hearing. (Public Safety Article §3-112 (c) (1) - LEOBR)

**VI. MAINTENANCE OF DISCIPLINARY RECORDS**

Maintained by the Chief of Police

- A. Because of their sensitivity and confidentiality, all records of a disciplinary nature will be maintained in a secure file by the Chief of Police.
- B. The records will be maintained in the file until such time as they are expunged pursuant to the provisions of the LEOBR Public Safety Article §3-110.