

GENERAL ORDER



DISTRICT OF COLUMBIA

Subject
Disciplinary Procedures and Processes

Topic	Series	Number
PER	120	21

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I. BACKGROUND

The purpose of this order is to establish policies, rules and procedures for handling discipline relating to the alleged misconduct of sworn members in a manner that is consistent with the mission of the Department, applicable labor agreements, and District of Columbia law concerning disciplinary appeals. Any provision for the review of corrective and adverse actions negotiated between the Department and the labor organization shall take precedence over the provisions of the D.C. Comprehensive Merit Personnel Act for members in the collective bargaining unit, to the extent that there is a difference. This order does not apply to the disciplinary process relating to civilian members.

II. POLICY

The policy of the Metropolitan Police Department is that members shall be subject to disciplinary action for cause. The Department recognizes the distinction between those misconduct matters that warrant a serious disciplinary response at the Department level, and those types of misconduct that may be handled effectively at the assigned element, and that permit non-disciplinary action or performance improvement action.

Discipline shall be prompt, consistent, fair, and equitable, and the Department shall utilize progressive discipline as appropriate. Members shall have the opportunity to present a response, or a defense, and to appeal disciplinary actions. (CALEA 26.1.1)

III. DEFINITIONS

When used in this directive, the following terms shall have the meanings designated:

1. Adverse Action – Any fine, suspension, removal from service, or any reduction in rank or pay of any member who is not serving a probationary period.
2. Cause – (see D.C. Personnel Regulations, Section 1603 [Final Rulemaking, pursuant to D.C. Official Code § 1-616.5, published in the D.C. Register on Sept. 10, 1999])
 - a. A conviction (including a plea of *nolo contendere*) of a felony;
 - b. A conviction (including a plea of *nolo contendere*) of any crime (regardless of punishment). No relationship need be established between the crime, and the member's position in the case of sworn members of the Department;
 - c. Any act or omission, whether occurring on or off duty, which constitutes a criminal offense, whether or not such act or omission results in a conviction;
 - d. Any credible evidence of use of an illegal drug or unauthorized use or abuse of prescription drugs, including without limitation, the results of any drug test;
 - e. Any knowing or negligent material misrepresentation on an employment application or other document given to a government agency;
 - f. Any on-duty or employment-related act or omission that the member knew, or should reasonably have known, is a violation of law;
 - g. Any on-duty or employment-related act or omission that interferes with the efficiency, or integrity, of government operations;
 - h. Any other on-duty or employment-related reason for corrective or adverse action that is not arbitrary and capricious.

The definition of cause includes, without limitation:

- i. Unauthorized Absence – The absence from duty without authorized leave;

- j. Negligence – Performing a job duty or responsibility in a manner that demonstrates that the member is not using due care or prudence in carrying out job responsibilities. A member engages in negligent conduct if the conduct falls below the standards established by the element, and can include such actions as inadvertence, thoughtlessness and inattention;
 - k. Incompetence – The lack of ability, legal qualification, or fitness to discharge a required duty;
 - l. Insubordination – The failure to obey directives or orders issued from a supervisory official, or showing disrespect to a supervisory official;
 - m. Misfeasance – The improper performance of a duty or responsibility that is within the scope of duties of the member and duties that the member is lawfully able to perform;
 - n. Malfeasance – The performance of a duty or act that the member is not authorized to perform, and is not in the scope of duties or responsibilities of the member; or
 - o. Unreasonable failure to assist a fellow government employee in performing his or her official duties; or
 - p. Unreasonable failure to give assistance to a member of the public seeking services, or information from the government.
- 3. Collective Bargaining Agreement (CBA) – The agreement entered into between the Metropolitan Police Department and the Fraternal Order of Police/Metropolitan Police Department Labor Committee.
 - 4. Commander or Commanding Officer – In this directive, includes civilian directors and supervisors when supervising sworn personnel.
 - 5. Commander's Resolution Conference – A face-to-face meeting between the Commanding Officer, or the Director, Disciplinary Review Division (DDRD), and the subject member in cases where the proposed penalty does not exceed a fine or suspension of ten (10) days.
 - 6. Conviction – Includes conviction of a member in any court of competent jurisdiction of any criminal or quasi-criminal offense, or any offense in which the member either pleads guilty, receives a verdict of guilty, or a conviction following a plea of *nolo contendere*.
 - 7. Corrective Action – A PD Form 750 (Dereliction Report), a letter of prejudice, or an official reprimand.

8. Disciplinary Action – A Corrective Action or Adverse Action taken against a member.
9. Hearing Tribunal – In this directive, the term “tribunal” includes Trial Boards as defined in D.C. Official Code § 5-133.06 (Trial Boards), Adverse Action Panels, and Department Hearing Panels as contemplated by the FOP/MPD Collective Bargaining Agreement.
10. Letter of Prejudice – A written notice to a member outlining specific misconduct and warning of future disciplinary action, considered as corrective action.
11. Officials – Sworn members the rank of sergeant or above, and civilian equivalents who supervise sworn and/or civilian members.
12. Official Reprimand – A Commanding Officer’s formal written censure for specific misconduct.
13. PD Form 750 (Dereliction Report) – A written notice used to cite members for misconduct as determined by their Commanding Officers.
14. Rehabilitation – The ability of a member to recover from the misconduct to perform all of the essential functions of the job of police officer.
15. Suspension – A temporary cessation of pay and police authority, with or without a definite date of restoration.
16. Termination or Removal – Dismissal from the Metropolitan Police Department for cause in accordance with due process.

IV. RULES

- A. The Chief of Police is the designated final authority with respect to discipline. Such authority may be delegated.
- B. The Chief of Police shall review and decide all appeals of disciplinary actions. The decision of the Chief of Police, or his/her designee, on appeals of Corrective Actions shall be the final administrative review of these actions.
- C. All disciplinary actions are subject to the provisions of GO-PER-201.22 (Fire and Police Disciplinary Action Procedure Act of 2004), which sets forth the internal timelines governing the handling and commencement of Corrective Action or Adverse Action against sworn or civilian members of the Department in order to comply with the 90-day requirement as set forth in D.C. Official Code § 5-1031.

V. REGULATIONS

- A. Members shall immediately notify supervisors upon observing, or becoming aware of, an alleged violation of Department policies, laws, rules, regulations, or directives. Supervisors shall immediately initiate a preliminary investigation by assigning a member not directly involved, obtain Incident Summary (IS) numbers when appropriate, and thereafter shall perform the duties, and assume the obligations, of their rank or grade as related to the investigation. (CALEA 26.1.5)
- B. All Officers (including supervisors and managers who learn of evidence of possible misconduct through their review of an Officer's work) shall notify the Office of Professional Responsibility (OPR) within one hour of any conduct by other Officers that reasonably appears to constitute any of the following:
1. An excessive use of force, or improper threat of force;
 2. A false arrest, or filing of false charges;
 3. An unlawful search or seizure;
 4. Unlawful discrimination;
 5. An intentional failure to complete use of force reports required by MPD policies, and in accordance with procedures;
 6. An act of retaliation for complying with any MPD policy and procedures;
 7. An intentional provision of false information in an MPD or Office of Police Complaints (OPC) investigation, or in any official report, log, or electronic transmittal of information.
- C. Members shall cooperate fully with any member of the Department conducting misconduct investigations.
- D. The Assistant Chief, OPR, in coordination with the Assistant Chief, Office of Human Services (OHS), shall investigate and propose discipline as appropriate. The Chief of Police is the final decision maker on all discipline, and may modify a penalty in his sole discretion.
- E. The procedures for Adverse Action do not apply to allegations of unsatisfactory performance or misconduct on the part of probationary members. Allegations involving probationary members shall be handled in accordance with the applicable provisions in General Order 201.7 (Review Boards).

- F. Sustained allegations of misconduct against at-will members that may result in suspension or termination of the member's contract shall be forwarded to the Chief of Police for determination.
- G. Except where a less restrictive standard is provided by statute, or other provision of law, members not covered by collective bargaining, to include Senior Police Officers, may only receive Corrective Action or Adverse Action for cause, and shall be subject to the same procedures and penalties prescribed in this directive so far as is applicable, or as determined by the Chief of Police.
- H. Allegations of unsatisfactory performance or misconduct involving probationary members shall be handled in accordance with General Order 201.7 (Review Boards).
- I. All disciplinary actions shall be tracked and recorded by OPR.
- J. All copies of signed and served notices involving corrective action that does not require IS numbers shall be sent to OPR. (CALEA 35.1.15 and 26.1.8)
- K. Non-disciplinary action or performance improvement action shall be conducted in accordance with GO-PER-201.20 (Performance Management System [PMS] for Sworn Members in the Rank/Position of Civil Service Sergeant, Investigative Personnel, and Officer).
- L. Every member of the Department shall familiarize himself/herself with all policies, laws, rules, regulations, and directives governing the Department before the completion of recruit training, and shall maintain familiarity, throughout their employment, with all updates and revisions as they are disseminated.
- M. All investigative reports received from the OPC recommending disciplinary action shall be processed in accordance with General Order 1202.5 (Citizen Complaints), and this order.
- N. Civilian directors and supervisors shall have the same disciplinary authority as equivalent Commanders and sworn officials when supervising sworn personnel. (CALEA 11.3.1)
- O. The provisions in this order are not applicable to members of the Reserve Corps, or to civilian members of the Department.

VI. PROCEDURAL GUIDELINES

- A. General
 - 1. The Table of Offenses and Penalties (Attachment A) is provided as a guide for the administration of consistent disciplinary measures.

2. The Department shall thoroughly and objectively investigate all allegations of misconduct.
3. Disciplinary action shall be taken in a manner, and at a level, appropriate with the member's past record, and the seriousness of the offense.
4. Appropriate consideration may be given to aggravating or mitigating circumstances that, when weighed, would require discipline at a different level.
5. Determination of misconduct charges shall be based upon a preponderance of the evidence.
6. Members who are being investigated for misconduct charges shall be provided with the charges and specifications that pertain to their case at the time of their interview. This does not preclude the possibility that additional charges and specifications may be discovered and added during the course of the investigation.
7. Subject to compliance with applicable terms and conditions of the existing CBA, the MPD shall employ Corrective Action, or Adverse Action, in response to misconduct by members of the Department.

B. Corrective Action

1. Corrective Action is unit-level discipline.
2. Commanding Officers/Directors may issue corrective action as described in Section VI.(C-E) of this directive. In general, progressive discipline for a corrective action ranges from the administration of a PD Form 750, to a Letter of Prejudice, to an Official Reprimand (Attachments B and C to this General Order provide templates for the Letters of Prejudice and Official Reprimand). (CALEA 26.1.5)
3. When an Official Reprimand is under consideration, the Commanding Officer/Director must interview the offending member, and consider his/her comments for mitigation.
4. After reviewing the investigative summary, Commanding Officers/Directors (upon consideration and articulation of appropriate mitigating or aggravating factors) shall decide the appropriate level of action, and issue such action over their signatures.
5. An employee covered by the CBA, against whom corrective action is taken, has the right to appeal the action to the Chief of Police as provided in the CBA. The decision of the Chief of Police will not be subject to further appeal, or arbitration. (CALEA 26.1.6)

6. Commanders and Directors shall forward to the DDRD copies of all corrective actions (Official Reprimands, Letters of Prejudice, or PD Form 750s) at the time any such corrective action is issued.
7. Records of Corrective Actions shall be sent to OPR and retained in the cited member's element personnel folder for a period of three (3) years after issuance. Upon application by the member, the records may be ordered removed by the member's Commanding Officer/Director, Assistant Chief, or the Chief of Police. (CALEA 26.1.8)

C. PD Form 750 (Dereliction Report)

1. The PD Form 750 is used as a record of derelict performance in matters that have not reached a serious level of concern or impact, but which need to be brought to the attention of the member so that conduct can be modified to avoid future problems.
2. The PD Form 750 shall:
 - a. Describe the specific violation(s);
 - b. Identify measures needed to correct deficiencies; and
 - c. Include a statement that such action may be:
 - (1) Considered in performance evaluations; and
 - (2) Considered in deciding greater degrees of disciplinary action.
3. Unless otherwise directed by the Chief of Police, some appropriate uses of the PD Form 750 may include, but are not limited to, the first instances of the following:
 - a. Lateness appearing for an assignment;
 - b. Failure to appear for an assignment;
 - c. Court-related derelictions;
 - d. Minor crash-related derelictions; or
 - e. Uniform or equipment deficiencies.

D. Letter of Prejudice (CALEA 26.1.4)

1. A Letter of Prejudice is a written notice to a member outlining the specific misconduct, and future consequences.

Letters of Prejudice shall include a notice outlining:

- a. Additional supervision;
 - b. Counseling; (CALEA 26.1.4-b)
 - c. Training; (CALEA 26.1.4-a)
 - d. Professional assistance; and
 - e. A statement that such action shall:
 - (1) Be considered in performance evaluations;
 - (2) Be considered in deciding greater degrees of disciplinary action; and
 - (3) Be used as a basis for an official reprimand, or adverse action for any similar infraction within a two-year period.
2. Commanding Officers/Directors shall issue a Letter of Prejudice when the following criteria exist:
 - a. The infraction is such that it does not have a serious impact on the image, reputation, or efficiency of the Department, yet tends to have a serious effect upon the supervisor's confidence in the member's ability to perform assigned duties;
 - b. Repeated or continued infractions may have a serious impact upon the image, reputation, or efficiency of the Department;
 - c. There is a positive potential for the member's rehabilitation.

E. Official Reprimand

1. An Official Reprimand is a Commanding Officer/Director's formal written censure for specific misconduct. (CALEA 26.1.4-c)
2. An Official Reprimand shall be considered in performance evaluations and personnel assignment decisions, and in deciding greater degrees of disciplinary action for offenses committed within a three-year period.

3. Receipt of three Official Reprimands within a two-year period shall subject the member to an unsatisfactory performance-of-duty rating at his/her next rating period.
4. Commanding Officers/Directors shall issue an Official Reprimand when the following criteria exist:
 - a. The violation is such that it could have a serious impact upon the image, reputation, or efficiency of the Department;
 - b. The violation is such that it has a serious impact upon the supervisor's confidence in the member's ability to perform assigned duties;
 - c. There is a positive potential for the member's rehabilitation.

F. Commander's Resolution Conference

1. The Commanding Officer/Director shall attempt to resolve a disciplinary matter during a Commander's Resolution Conference with an affected member and his/her Union representative, unless the member voluntarily waives representation. Once notified, and prior to the conference, the member may, during the day-work tour, review the investigative report of the incident that resulted in the proposal that is the subject of the conference.
2. Transfer, reassignment, change of days off, and nontraditional remedies that include, but are not limited to, community service, counseling, training, professional assistance, etc., may be employed when voluntarily agreed to by a member during a Commander's Resolution Conference.
3. If discipline is recommended by OPC, or by a Commander/Director other than the one to whom the member is permanently assigned, the Commander's Resolution Conference shall be held with the DDRD.
4. Members facing suspensions may request to forfeit accrued annual leave or compensatory time (not including sick leave) in lieu of suspension for any period up to five (5) days in discipline cases. Members may not work extra duty to compensate for suspended days.
5. If an agreement is reached as the result of a Commander's Resolution Conference that includes discipline to be held in abeyance, the discipline should be held in abeyance for a minimum of twelve (12) months from the date the agreement was reached.

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6. The Assistant Chief, OPR, shall ensure appropriate tracking, receiving, and recording of all disciplinary information derived from the process described in this general order.

G. Adverse Action (CALEA 26.1.4-c)

1. Adverse Action is Department-level discipline.
2. Adverse Action shall include:
 - a. Any fine;
 - b. Any suspension (Suspensions not exceeding ten (10) days may be resolved at the element level);
 - c. Reduction in rank or pay;
 - d. Removal from service.
3. Commanding Officers/Directors shall not specify, recommend, or suggest a penalty or penalty range regarding the number of days suspended. If Commanding Officers/Directors recommend a reduction in rank, or removal from any specialized positions/unit, the Commanding Officers/Directors shall articulate the reason(s) for these recommendations.
4. Completed investigative reports involving recommendations for Adverse Action shall be handled in accordance with the timeframe established in GO-PER-201.22 (Fire and Police Disciplinary Action Procedure Act of 2004), and as follows:
 - a. For members the rank of Sergeant and below, the reports shall be reviewed by the appropriate Assistant Chief/Senior Executive Director, and shall be forwarded to OPR for appropriate processing.
5. Assistant Chiefs/Senior Executive Directors who receive investigative reports and recommendations shall review such reports within five (5) working days, if practicable, and shall either concur or not concur, stating reasons for non-concurrence.

Assistant Chiefs/Senior Executive Directors may return the matter to the element commander for further investigation, and may add comments, questions, or suggestions. When investigations are

returned to an element for correction or additional information, the element shall notify OPR to adjust the due date for tracking purposes.

6. The DDRD, in administering the disciplinary process, shall:
 - a. Review investigative reports and disciplinary recommendations for completeness and accuracy.
 - b. Depending on the severity and nature of the alleged violation, and consideration of appropriate mitigating or aggravating factors, recommend that:
 - (1) Adverse Action be taken;
 - (2) The case be heard by a Department Hearing Tribunal;
 - (3) The case be returned to the forwarding element for further investigation, or for other disciplinary action as the Commanding Officer/Director deems appropriate; or
 - (4) The charges be dismissed due to extenuating circumstances.
 - c. When the DDRD recommends a "Suspension Not Exceeding Ten Days," a Commanding Officer/Director has the authority to resolve the disciplinary action through a Commander's Resolution Conference. In suspension cases where no agreement is reached, such matters shall be remanded to the DDRD for appropriate processing.
7. Upon review by the DDRD, investigative reports recommending adverse action shall be referred to the Assistant Chief, OHS, with charges and specifications recommended by the DDRD, for appropriate concurrence and processing by the Assistant Chief, OHS.

H. Notice of Proposed Adverse Action

1. The Assistant Chief, OHS, shall issue a Notice of Proposed Adverse Action. The member shall be given an opportunity to respond to the notice, in writing, within fifteen (15) business days, and the Assistant Chief, OHS, shall consider the member's response before rendering a written decision. In the event the Department proposes termination, the member shall have twenty-one (21) business days to submit his/her response, and to indicate whether he/she desires a Departmental hearing.
2. The Notice of Proposed Adverse Action issued by the Assistant Chief, OHS, shall include:

- a. Charges – specific regulation(s) alleged to have been violated;
 - b. Specification(s) – the date and location of the alleged act or omission, and a statement of the alleged act or omission;
 - c. The proposed action; and
 - d. A copy of the investigative report.
3. In the event termination is proposed, the Notice of Proposed Adverse Action shall inform that:
- a. The member has a right to be represented by an attorney licensed to practice in the District of Columbia, or by a union representative at all steps of a hearing;
 - b. The member must be provided with a history of charges up to the current date;
 - c. The appropriate hearing procedures will be used, including the DDRD Hearing Manual, or Trial Board Rules;
 - d. The accused member must furnish any pertinent documents, or copies thereof, that he/she wishes to offer as evidence;
 - e. The names of any witnesses he/she wishes to testify on his/her behalf must be submitted, in writing, to the DDRD not less than five (5) days (exclusive of Saturdays, Sundays and legal holidays) prior to the time set for the hearing.
- I. Service of Notice of Proposed Adverse Action
1. Service of Notice of Proposed Adverse Action shall be made by an official of the Department, to include civilian supervisors as defined in Section III.11. of this order.
 2. Upon receipt of the Notice of Proposed Adverse Action, the Commanding Officer/Director shall direct an official of his/her element to:
 - a. Serve the original of the Notice of Proposed Adverse Action upon the member as instructed;
 - b. Deliver charges and specifications to the member, and require him/her to acknowledge receipt by affixing his/her signature;
 - c. Have the member acknowledge receipt of the attached copy of the entire investigative report;

- d. Sign the original and attached copies of the proposed notice as a witness;
 - e. Keep a copy of the Notice of Proposed Adverse Action for element files; and
 - f. Immediately forward two signed copies to the DDRD.
3. Accused members shall:
 - a. Keep a copy of the Notice of Proposed Adverse Action; and
 - b. Sign the original, and attached copies, and return the copies to the official effecting service.
 4. If timely personal service of the charges cannot be made, the responsible official shall notify the DDRD and the Commanding Officer/ Director, Watch Commander, or acting director, who may authorize alternative manners of service designed to effect actual notice or constructive service, such as leaving a copy for the member at the last address of record, as appropriate.
- J. Disciplinary Hearings
1. In cases where termination is proposed, or at the discretion of the Assistant Chief, OHS, a hearing shall be conducted by a Hearing Tribunal as a fact-finding forum to make recommendations to the Assistant Chief, OHS, subject to review and approval by the Chief of Police.
 2. When a hearing has been set, the Assistant Chief, OHS, shall serve notice of the Department's proposed adverse action on the affected member, informing him/her of the hearing date, the name and rank of each selected panel member, and the type of hearing, i.e., Adverse Action Panel/Trial Board.
 3. The DDRD is authorized to:
 - a. Order any member of the Department to appear before him/her, or before any person(s) designated by him/her, to give testimony and/or produce all official books, records, papers or documents pertaining to the case;
 - b. Grant continuances;
 - c. Administer the Oath of Office to members of the Hearing Tribunal with authority to delegate the same.

K. Selection of Hearing Tribunal

1. The Chief of Police, or his/her designee, shall select the Hearing Tribunal members.
2. In selecting members for Hearing Tribunals, the Chief of Police, or his/her designee, shall select from:
 - a. All Commanders and Inspectors who have previous experience as Hearing Tribunal members, without regard to rank, to serve as chairman.
 - b. All Commanders, Inspectors, and Captains to serve as Hearing Tribunal members, except members from OPR.
 - c. The Chief of Police, or his/her designee, can exclude any member for service on the Hearing Tribunal.
3. Hearing Tribunals are empowered to do the following:
 - a. Summon any member of the Department to appear before the Hearing Tribunal to give testimony, and/or produce all official books, records, papers, or documents pertaining to the case;
 - b. Enter into the record pleas of guilty or not guilty to the charges and specifications, which may be with, or without extenuating circumstances. The Hearing Tribunal shall have no authority to agree to any penalty in exchange for a guilty plea or otherwise, nor shall any such agreement have any binding force or effect upon the Department;
 - c. Grant continuances;
 - d. Make findings of fact;
 - e. Make or cause depositions to be taken;
 - f. Make findings and recommendations for punishment consistent with governing regulations;
 - g. Add, alter, and/or amend charges and specifications that are not compatible with the evidence; provided the accused has an opportunity to respond to the charges before the hearing concludes;
 - h. Rule on all questions at issue in taking testimony, or submitting evidence, but may have exceptions noted to the rulings;

- i. Revoke the privilege extended for the attendance of any counsel during a proceeding for sufficient cause; but this action shall in no way prevent the accused from substituting other counsel;
 - j. Require respectful conduct on the part of any and all persons in attendance.
 - (1) Chairpersons are empowered to resolve any dispute, and shall make record of their action in any such case;
 - (2) Close any hearing to the public for good reason; making a record of such reason.
4. The findings of Hearing Tribunals shall be recorded and maintained by the DDRD, which shall be open for inspection by the accused.
5. Authority of Hearing Tribunals shall be set forth in a "Hearing Manual" issued by the DDRD. The manual shall be consistent with guidelines set forth in this directive; D.C. Personnel Regulations Chapter 16; D.C. Official Code § 5-127.01 (Conduct of Force), and § 5-133.06 (Trial Boards); Title 6A DCMR, Chapter 10 (Disciplinary Procedures); and applicable provisions of the current CBA.
6. At the conclusion of a hearing, the Hearing Tribunal shall write findings of fact and conclusions of law with recommendations to the Assistant Chief, OHS, outlining the Tribunal's findings and proposed decision.
7. In the event that the Hearing Tribunal recommends a lesser penalty when termination has been proposed, the Tribunal shall, as part of their findings and proposed decision, provide a specific written rationale to justify their recommendation for mitigation of the proposed termination.
8. After reviewing the Hearing Tribunal's proposed decision, the Assistant Chief, OHS, may remand the case to the same, or a different tribunal, or issue a decision (Final Notice of Adverse Action) affirming, reducing, or setting aside the action, as originally proposed in the Notice of Proposed Adverse Action.
9. The Assistant Chief, OHS, shall issue the Final Notice of Adverse Action. The final notice of adverse action shall be issued in compliance with D.C. personnel rules and regulations and, as applicable, the related provisions in the CBA. Deadlines may be extended by request of the affected member, or through applicable agreement(s) referenced above.

L. Adverse Action Appeals (CALEA 26.1.6)

1. Upon receipt of a written Final Notice of Adverse Action, members may, within ten (10) business days, appeal the action to the Chief of Police, or Mayor, if applicable, or as outlined in an applicable CBA or law.
2. The Chief of Police shall respond to the member's appeal within fifteen (15) business days. Upon receipt of an adverse decision from the Chief of Police, members may appeal to the D.C. Office of Employee Appeals, as permitted by the District Personnel Manual, or to arbitration, as outlined in the existing CBA.
3. Appeals shall not serve to delay the effective date of the decision of the Department.
4. When an appeal is made, the appropriate papers shall be forwarded to the Chief of Police, who may affirm or modify the findings and/or the penalty imposed, remand the case to a previous step in the process, or remand the case for an alternative process, as he/she deems appropriate.
5. The Chief of Police may impose a higher penalty than recommended by the Hearing Tribunal, or the Assistant Chief, OHS.

M. Appeal Rights Outside of Agency

1. D.C. Office of Employee Appeals (OEA)
 - a. A member may appeal to the OEA any Adverse Action for cause that results in removal, reduction in grade, or suspension for ten (10) days or more.
 - b. Any such appeal shall be filed within thirty (30) days of the effective date of the agency action.

2. Arbitration Process

The Fraternal Order of Police may elect to go to arbitration pursuant to Article 19-E (Arbitration) of the CBA with regard to a member covered by the CBA, against whom a decision by the Chief of Police has been made on Adverse Action exceeding a penalty of five (5) days.

3. Grievance Procedures

A member covered by the CBA, who is to be suspended for less than six (6) days, has the right to appeal the action to the Chief of Police as provided in the CBA. The decision of the Chief of Police will not be subject to further appeal or arbitration. (CALEA 26.1.6)

- N. Element Commanders shall ensure that all service of suspension and/or forfeited leave is documented and forwarded to OHS and OPR the next business day after the Commander's Resolution Conference.
- O. The Assistant Chief, OPR, shall be responsible for the investigation, review, or assignment of the following types of cases:
1. Formal charges by citizens against Department personnel, which may include those received and processed by the OPC.
 2. Allegations against Department personnel involving the commission of criminal offenses, or serious misconduct as defined by GO-PER-120.23 (Serious Misconduct Investigations).
 3. Allegations against Department personnel involving chain of command misconduct. Upon receipt of an alleged violation, the Assistant Chief, OPR, shall take one of the following actions:
 - a. Refer it to the appropriate command;
 - b. Conduct a preliminary investigation, and then, if appropriate, refer it to an appropriate command; or
 - c. Order an investigator assigned to the OPR to conduct the investigation.
 4. OPR shall provide assistance to investigators engaged in complaint investigations when that element determines that assistance is needed.
- P. The Assistant Chief, OHS, shall:
1. Review investigative reports and issue Proposed Notices of Adverse Action that include a statement of the charges citing violations of General Orders, and specific description of the manner in which the General Order was violated.
 2. Review Appeals of Proposed Notices, and issue Final Notices of Adverse Action in accordance with the deadlines contained in the CBA, or when there is no appeal, at the expiration of the deadline.

3. Disseminate Proposed, Final, and Final Agency Action Notices to element commanders that involve members in their command. The memorandum that accompanies these service documents shall provide the deadline within which the member shall be served.
 4. Schedule disciplinary suspensions. These suspensions shall be scheduled as soon as possible after the issuance of the Final Notice of Adverse Action, or the Final Agency Action, as applicable.
 5. Ensure that disciplinary suspensions and terminations are documented by the creation of a personnel action, and that a copy of such action is placed in the member's Official Personnel Folder. Copies of all personnel actions documenting suspensions shall be sent to OPR.
- Q. Disciplinary action will not preclude a member from participating in the promotional process.
1. If, after the eligibility list is formed, a final disciplinary penalty of a suspension of twenty (20) days or greater is imposed, the member need not be promoted from that list.
 2. If an Adverse Action is proposed after the eligibility list is formed, the promotion may be suspended pending a final disposition.
 3. If the disposition is favorable to the member, or the penalty is less than a suspension of twenty (20) days, the member shall be promoted with back pay retroactive to the date when the member would otherwise have been promoted.
- R. Any person who has filed a formal complaint of misconduct against a member of the MPD is entitled to notification, in writing, of the resolution, including significant dates, general allegations, and the disposition of their complaint in accordance with General Order 1202.5 (Citizen Complaints).

VII. CROSS REFERENCES

- A. GO-PER-120.23 (Serious Misconduct Investigations)
- B. General Order 201.7 (Review Boards)
- C. GO-PER-201.20 (Performance Management System [PMS] for Sworn Members in the Rank/Position of Civil Service Sergeant, Investigative Personnel, and Officer)
- D. GO-PER-201.22 (Fire and Police Disciplinary Action Procedure Act of 2004)
- E. General Order 1202.5 (Citizen Complaints)

VIII. ATTACHMENTS

1. Attachment A: Table of Offenses and Penalties
2. Attachment B: Template for Letter of Prejudice
3. Attachment C: Template for Letter of Official Reprimand

//SIGNED//
Charles H. Ramsey
Chief of Police

CHR:SOA:DAH:JAH:afa:jah

TABLE OF OFFENSES AND PENALTIES

A. OFFENSES

Conduct described below is prohibited, and shall serve as the basis for an Official Reprimand, or Adverse Action.

1. Drinking “alcoholic beverage” or “beverage” as described in Section 25-101, subsection (5) of the D.C. Code, District of Columbia Alcoholic Beverage Control Act, or being under the influence of “alcoholic beverage” or “beverage”, while on duty.
2. Drinking “alcoholic beverage” or “beverage” as described in Section 25-101, subsection (5) of the D.C. Code, District of Columbia Alcoholic Beverage Control Act, “while in uniform off duty”; or being under the influence of “alcoholic beverage” when off duty.
3. The taking of any drug or substance, on or off-duty, as described in the D.C. Uniform Controlled Substances Act of 1981, unless taken upon the prescription of a licensed physician, or registered practitioner authorized to dispense a controlled substance during the course of professional practice.
4. Malingering or feigning illness or disability in order to evade the performance of duty.
5. Willfully disobeying orders, or insubordination.
6. Willfully and knowingly making an untruthful statement of any kind in any verbal or written report pertaining to his/her official duties as a Metropolitan Police Officer to, or in the presence of, any superior officer, or intended for the information of any superior officer, or making an untruthful statement before any court or any hearing.
7. Conviction of any member of the force in any court of competent jurisdiction of any criminal or quasi-criminal offense, or of any offense in which the member either pleads guilty, receives a verdict of guilty or a conviction following a plea of *nolo contendere*, or is deemed to have been involved in the commission of any act which would constitute a crime, whether or not a court record reflects a conviction. Members who are accused of criminal or quasi-criminal offenses shall promptly report, or have reported their involvement to their commanding officers.
8. Inefficiency as evidenced by repeated and well-founded complaints from superior officers, or others, concerning the performance of police duty, or the neglect of duty. Three sustained Adverse Actions within a 12-month

period upon charges involving misconduct, as provided in this section, shall be prima facie evidence of inefficiency. The Adverse Action charges need not be related.

9. Receiving money, or other valuable consideration, contrary to the rules and regulations of the Department, or the laws in force in the District of Columbia.
10. AWOL (Absent Without Leave), i.e., reporting late for duty more than six (6) times within a one-year period, an absence from duty without official leave in excess of the first four (4) hours of a scheduled tour of duty, or any unexcused absence from a scheduled duty assignment that is not in the category of "lateness."
11. Using unnecessary and wanton force in arresting or imprisoning any person, or being discourteous, or using unnecessary violence toward any person(s), or the public.
12. Conduct unbecoming an officer, including acts detrimental to good discipline, conduct that would adversely affect the employee's or the agency's ability to perform effectively, or violations of any law of the United States, or of any law, municipal ordinance, or regulation of the District of Columbia.
13. Willful failure to promptly report to the Chief of Police, or the Assistant Chief, Office of Professional Responsibility, through channels or directly, any disloyalty, or suspected disloyalty, to the United States or to the Government of the District of Columbia; or to promptly report any violation by any person whomsoever, without or within the Metropolitan Police Department, of the Criminal Code of either the United States, or the District of Columbia; or to report the violation of any section of the rules and regulations of the Department.
14. Neglect of duty to which assigned, or required by rules and regulations adopted by the Department.
15. Compromising a felony or any other unlawful act, or to participate in, assent to, aid, or assist any person suspected of a crime to escape full judicial examination by failing to give known facts, or reasonable causes of suspicion, or withdrawing any information relative to the charge or suspicion from the proper judicial authorities; or in any manner to receive any money, property, favor, or other compensation from, or on account of, any person arrested, or subject to arrest, for any crime or supposed crime; or to permit any such person to go at large without due effort to secure an investigation of such supposed crime.

16. Failure to obey orders or directives issued by the Chief of Police.
17. Fraud in securing appointment, or falsification of official records or reports.
18. Improper political activity, or engaging in a strike.
19. Willful misuse or mutilation, or willful or neglectful destruction of District of Columbia property or funds.
20. Misuse of official position, or unlawful coercion of an employee for personal gain or benefit.
21. Undependability as evidenced by repeated and well-founded tardiness complaints from superior officers, which results in adverse action. Three such complaints within a 12-month period shall be prima facie evidence of undependability. The member shall be cited for undependability on the fourth such instance.
22. The use of, or negligent loss of a firearm, and/or radios, badges, or other Department-issued equipment, not in conformity with Section 207, Title 6A, District of Columbia Municipal Regulations; and/or not in conformity with General Order RAR-901.01 (Handling of Service Weapons).
23. The refusal of a member to submit to urinalysis testing, Breathalyzer test, or other tests that measure drugs and/or alcohol in the system (e.g. an Intoxilyzer test) when required, at the Medical Services Section.
24. A finding that a member has violated Department Equal Opportunity policies, the D.C. Human Rights Act, or equivalent federal laws or regulations. This includes the provision of equal services as required by District or federal law.
25. Any conduct not specifically set forth in this order, which is prejudicial to the reputation and good order of the police force, or involving failure to obey, or properly observe any of the rules, regulations, and orders relating to the discipline and performance of the force.

B. PENALTIES

The following Table of Penalties Guide shall be used as specified in this order. Use of this guide shall be mandatory as applicable. Where an individual order or directive provides for penalties, such penalties will supersede those contained in this Table of Penalties Guide. However, the Chief of Police, or the Assistant Chief, Office of Human Services (as appropriate), may, without regard to the provisions of this section, in extraordinary circumstances when confronted by a unique factual situation:

1. Determine that a penalty less than that established in the Table of Penalties shall be imposed, provided that such authority finds that, under all circumstances of the case, the mitigating considerations outweigh the aggravating considerations, or;
2. Determine that a penalty greater than that established in the Table of Penalties shall be imposed, provided that such authority finds that, under all the circumstances of the case, the aggravating considerations outweigh the mitigating considerations. Such considerations shall be set forth on the record with particularity, and such findings shall be made by a preponderance of the evidence.

TABLE OF OFFENSES AND PENALTIES GUIDE

#	Violation (abbreviated)	1 st	2 nd	3 rd
1.	On-Duty Alcohol	Suspension for 3 days to removal	Suspension for 10 days to removal	Removal
2.	Off-Duty Alcohol	Suspension for 3 days to removal	Suspension for 10 days to removal	Removal
3.	Drug Use	Removal		
4.	Malingering	Reprimand to removal	Removal	
5.	Insubordination	Suspension for 10 days to removal	Suspension for 15 days to removal	Removal
6.	Untruthful Statement	Suspension for 15 days to removal	Suspension for 30 days to removal	Removal
7.	Conviction	Removal		
8.	Inefficiency	Reprimand to removal	Suspension for 10 days to removal	Removal
9.	Receiving consideration/gratuity	Reprimand to removal	Removal	
10.	AWOL	Reprimand to removal	Suspension for 5 days to removal	Removal
11.	Unnecessary or Wanton Force	Suspension for 3 days to removal	Suspension for 10 days to removal	Removal
12.	Conduct Unbecoming	Suspension for 3 days to removal	Suspension for 5 days to removal	Removal
13.	Failure to Report Certain Violations	Reprimand to removal	Suspension for 10 days to removal	Removal
14.	Neglect of Duty	Reprimand to removal	Suspension for 15 days to removal	Removal
15.	Compromising a Felony	Removal		

16.	Failure to Obey Orders & Directives of COP	Reprimand to removal	Suspension for 1 day to removal	Suspension for 15 days to removal
17.	Fraud in appt. or falsification of records	Suspension for 30 days to removal	Removal	
18.	Improper political activity or strike	Removal		
19.	Misuse or mutilation of D.C. property or funds	Reprimand to removal	Suspension for 10 days to removal	Removal
20.	Misuse of position	Removal		
21.	Undependability (Tardiness)	Reprimand to Removal		
22.	Negligent Use or Loss of Firearm, radios, badges, or other Department-issued equipment	Suspension for 10 days to removal	Suspension for 20 days to removal	Removal
23.	Refusal to Submit to Urinalysis/Breathalyzer/Intoxilyzer	Removal		
24.	Sustained EEO Complaint	Reprimand to Removal	Removal	
25.	Prejudicial Conduct	Reprimand to removal	Suspension for 15 days to removal	Removal

TEMPLATE FOR LETTER OF PREJUDICE

METROPOLITAN POLICE DEPARTMENT

CS# _____

MEMORANDUM

TO: Member:
District/Division:

SUBJECT: LETTER OF PREJUDICE

You are hereby issued this Letter of Prejudice for the following dereliction of duty:

(Describe action that supports the dereliction of duty, and any recommendation by the Commanding Officer)

This notice will be considered in performance evaluations, and will be used in deciding greater degrees of disciplinary action. Consistent with General Order 120.21 (Disciplinary Processes and Procedures), should you be cited for a similar violation within a two-year period, you will receive an official reprimand or be cited for adverse action.

A copy of this Letter of Prejudice will be placed in your personnel folder. This constitutes a corrective action as defined in Article 12, Section 2, of the Collective Bargaining Agreement covering officers and sergeants, and may be appealed through the grievance procedure outlined in that agreement. (Members not represented by the collective bargaining unit for officers and sergeants may file a written appeal directly to the Chief of Police within ten (10) business days of issuance of this Letter of Prejudice).

You shall acknowledge receipt of this action by affixing your signature on all copies, the original of which shall be retained in your personnel folder for a period of two (2) years of acknowledgement.

Commander

ACKNOWLEDGEMENT

I hereby acknowledge receipt of this Letter of Prejudice, and I am aware that this report will be made part of my personnel folder.

Signature of member

Date

Signature of serving official

Date

TEMPLATE FOR LETTER OF OFFICIAL REPRIMAND

METROPOLITAN POLICE DEPARTMENT

CS # _____

MEMORANDUM

TO: Member:
District/Division:

SUBJECT: OFFICIAL REPRIMAND

You are hereby issued this Official Reprimand for the following dereliction of duty:

(Describe action that supports the dereliction of duty, and any recommendation by the Commanding Officer)

This Official Reprimand is a written censure being issued to you as a formal notice of your unsatisfactory conduct. This notice will be considered in performance evaluations, and will be used in deciding greater degrees of disciplinary action within a three-year period. Receipt of three official reprimands within a two-year period will subject you to an unsatisfactory performance rating for your next rating period.

A copy of this Official Reprimand shall be placed in your personnel folder. This constitutes a corrective action as defined in Article 12, Section 2, of the Collective Bargaining Agreement covering officers and sergeants, and may be appealed through the grievance procedure outlined in that agreement. (Members not represented by the collective bargaining unit for officers and sergeants, may file a written appeal directly to the Chief of Police within ten (10) business days of issuance of this Official Reprimand).

Commander

ACKNOWLEDGEMENT

I hereby acknowledge receipt of this Official Reprimand, and I am aware that this report will be made part of my personnel folder.

Signature of member

Date

Signature of serving official

Date