
	GAITHERSBURG POLICE DEPARTMENT		
	Disciplinary System		
	GENERAL ORDER	208.1	
Effective Date	06/08/2023	25.1.1, 25.1.2, 25.1.3, 26.1.4, 26.1.6, 26.1.7, 26.1.8	
Authorized by:	Mark P. Sroka CHIEF OF POLICE	SIGNATURE	DATE 06/08/2023

1. **PURPOSE**

The purpose of the disciplinary system is to protect the integrity of the Department and its personnel. This directive outlines the Department’s disciplinary system to provide for consistent application of the process and to inform personnel of procedures and employee rights.

2. **POLICY**

2.1. In order for the disciplinary system to operate as intended, all supervisory personnel must ensure that the personnel they supervise comply with lawful orders, established policies, procedures, rules and regulations. The disciplinary process is not solely punitive in nature. The process contains provisions for the use of counseling or remedial training when deemed appropriate for the infraction or circumstances.

2.2. All employees have rights and protections afforded them by the Gaithersburg City Code and the City Personnel Rules and Regulations Manual.

3. **DEFINITIONS**

3.1. **Discourtesy:** Within the context of this directive, the term “discourtesy” refers to any coarse, or insolent language or action performed by a member acting in their official capacity, which is offensive by contemporary community standards.

3.2. **Personnel:** Within the context of this directive, the term “personnel” or “employee” refers to all employees of the Gaithersburg Police Department, unless a more direct distinction is made.

3.3. **Truth Verification Examination:** Within the context of this directive, the term “truth verification examination” refers to the use of a device or system, such as a polygraph or Computer Voice Stress Analyzer (CVSA) that aids in evaluation of the truthfulness of an interviewee’s responses to questioning.

4. PROCEDURE

4.1. Grievances

- 4.1.1. Grievances are handled according to Section 1700 of the City's Personnel Rules and Regulations Manual.
- 4.1.2. As the Department's grievance coordinator, the Chief of Police (or designee) will conduct, at a minimum, an annual analysis of grievances.
- 4.1.3. Grievance records are personnel matters and will be maintained securely at the Human Resources Department.
- 4.1.4. Grievance records will be maintained in accordance with the provisions of the City's records retention schedule.

4.2. Counseling

4.2.1. Verbal Counseling

- 4.2.1.1. Counseling may be more appropriate as a function of corrective action than the placing of formal administrative charges for minor infractions.
- 4.2.1.2. Supervisory personnel should strive to correct deficiencies through private counseling whenever the infraction is minor and counseling is expected to have a positive impact.

4.2.2. Remedial Action Form

- 4.2.2.1. The intent of the Remedial Action Form is to provide supervisors with an instrument to document counseling and recommended corrective action for minor infractions.
- 4.2.2.2. 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 the employee's personnel file is not deemed necessary.
- 4.2.2.3. Instances when a supervisor may consider using the form include:
 - 4.2.2.3.1. Member tardiness (not repeated);
 - 4.2.2.3.2. Disruptive behavior in roll call;
 - 4.2.2.3.3. Failure to make timely radio responses;

4.2.2.3.4. Improper use of a police vehicle; or

4.2.2.3.5. Other minor infractions that should be immediately addressed.

4.2.2.4. The copy of the Remedial Action Form will be placed in the officers NeoGov record after disposition for the duration of the performance evaluation period and then destroyed:

4.2.2.4.1. The employee will be notified via NeoGov of the entry;

4.2.2.4.2. No copies are to be placed in the member's personnel file.

4.2.2.4.3. Under no circumstances will the form be completed without the employee being given the opportunity to review the document, make written comments concerning the incident and sign the form.

4.2.3. Written Counseling Form

4.2.3.1. The Written Counseling Form will be used for incidents that are similar in nature to those documented by the remedial action form, and will be maintained in the employee's NeoGov file after disposition for the duration of the performance evaluation period.

4.2.3.2. A supervisor may complete this form instead of the remedial action form. The form will be discussed with the employee being counseled, who will be asked to sign the form before it is placed in the officer's NeoGov file.

4.3. Remedial Training

4.3.1. Supervisors will strive to identify instances where training would be more appropriate as a function of corrective action than the placing of charges.

4.3.2. Remedial training can be anything from a discussion held in roll call on a particular topic to a formal course of instruction.

4.3.3. When utilizing training as a function of corrective action supervisors should:

- 4.3.3.1. Explain the infraction committed and the expected future behavior;
- 4.3.3.2. Review the rule, policy, or procedure that was violated;
 - 4.3.3.2.1. Consider discussing the infraction at a future roll call, without naming the offender; and
 - 4.3.3.2.2. Recommend the need for further remedial training to the bureau commander, if necessary, pursuant to the provisions of General Order 401.1 – Attendance Requirements for Training, Reimbursement Policy & Remedial Training.

4.4. **Punitive Action**

4.4.1. General

- 4.4.1.1. Only the Chief of Police, or designee, has the authority to administer discipline or suspend an officer from duty, with or without pay.
- 4.4.1.2. The Department will accept and investigate complaints of alleged police misconduct, to either exonerate or establish guilt, and determine appropriate disciplinary action when misconduct is confirmed.
 - 4.4.1.2.1. A formal investigation of allegations will be conducted in all cases of complaints of police misconduct involving a member of the public. .
 - 4.4.1.2.2. Throughout all review procedures, the rights of the individual police officer and the member of the public shall be acknowledged and not be compromised..
 - 4.4.1.2.3. Members of the Department shall assume the obligations of their rank and perform their duties accordingly in the investigation of complaints or allegations of misconduct.
 - 4.4.1.2.4. Members of the Department shall cooperate fully with personnel conducting an internal investigation.

4.4.1.3. Command and supervisory personnel shall initiate investigations when an alleged violation, reported or observed, is within the scope of their authority. Violations outside of their authority shall be reported promptly to the chain of command.

4.4.1.4. Untruthfulness is a serious transgression. Any employee found to be guilty of untruthfulness shall be subject to dismissal proceedings.

4.4.2. Complaints

4.4.2.1. There are two type of complaint processes:

4.4.2.1.1. Complaints Involving a Member of the Public – These type of complaints shall be investigated in a manner consistent with General Order 209.1 – Internal Affairs and disposed of in a manner consistent with General Order 208.4 – Police Accountability Board Process.

4.4.2.1.2. Internal Complaints of Technical Infractions – These type of complaints shall be investigated and disposed of in a manner consistent with General Order 209. 1 Internal Affairs.

4.5. **Appeal Process for Civilian Employees**

4.5.1. Any regular classified City employee who has been suspended, demoted, or dismissed may appeal the action in writing to the City's personnel review board and request a hearing pursuant to Chapter 17-11of the Gaithersburg City Code.

4.5.1.1. When an appeal is filed, it shall state the pertinent facts relative to the action which is being appealed and shall be signed by the employee and filed with the personnel review board within five (5) days of the employee's receipt of the notice of the layoff, demotion, suspension, or dismissal;

4.5.1.2. If no request for a personnel review board hearing is contained in the appeal, the personnel review board, after conducting such investigation as it deems necessary, shall file its recommendations with the City Council;

4.5.1.3. If a request for a hearing is contained in the appeal, a personnel review board hearing shall be convened within 20 days of the filing of the appeal;

4.5.1.4. The appellant may request, in writing, the opening or the closing of the hearing to the public. If the appellant does not indicate a desire regarding the hearing being open or closed to the public, the personnel review board will make an appropriate determination.

4.5.2. Once a hearing has been requested, City Code requires the City Manager to notify the appellant by mail of the hearing date and time, at least five (5) days prior to the date of the hearing.

4.5.3. When conducted, the hearing shall be orderly, with presentation of all material facts, so that a fair and impartial decision may be made.

4.5.3.1. The appellant may be represented by counsel;

4.5.3.2. The hearing may be postponed only for good cause shown;

4.5.3.3. In the event the appellant fails to appear in person or by counsel at the hearing, it shall be presumed that the appellant has waived the right to a hearing.

4.6. **Dismissal**

4.6.1. The Department does not take the issue of dismissing employees lightly. Before a decision is made to dismiss an employee, careful consideration will be given to the facts and circumstances that necessitate the consideration of such action.

4.6.2. If misconduct results in the dismissal of any employee, the following information will be provided to the employee:

4.6.2.1. A statement citing the reason for dismissal,

4.6.2.2. The effective date of the dismissal, and

4.6.2.3. A statement of the status of fringe and retirement benefits after dismissal.

4.6.3. The Chief of Police shall terminate the employment of a sworn officer who is convicted of a Felony.

4.6.4. The Chief may terminate the employment of a police officer who:

4.6.4.1. Receives a probation before judgment for:

4.6.4.1.1. A Felony; or

4.6.4.1.2. Is convicted of:

4.6.4.1.2.1. A misdemeanor committed in the performance of duties as a police officer;

4.6.4.1.2.2. Misdemeanor second degree assault; or

4.6.4.1.2.3. A misdemeanor involving dishonesty, fraud, theft, or misrepresentation.

4.7. **Maintenance of Records**

4.7.1. Information shall not be released or divulged from any records of disciplinary action unless authorized by the Chief of Police.

4.7.2. All records of a disciplinary nature are maintained in a secure file by the Chief of Police.

4.7.2.1. All records pertaining to a dismissed employee, such as training, personnel, disciplinary and internal affairs, will be maintained securely in Department archives as per the Department's records retention schedule.