

## DISCIPLINARY PROCEDURES

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### DISCIPLINE

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**Purpose:** The purpose of this directive is to establish policy regarding member performance, discipline, and termination. This policy must be read in conjunction with other related policies of this agency.

**Policy Statement:** The effectiveness and efficiency of a police organization depends on its ability to maintain discipline within the structure of the agency. The North Little Rock Police Department shall ensure the integrity of its reputation through conscientious investigation and just disposition of any member=s conduct that is in violation of, or inconsistent with, the department=s mission, principles and values, standards or directives.

#### Summary of Changes:

#### Definitions:

**Equity** is characterized as that which is fair and reasonable as it applies to natural justice.

**Culpability** means the member violated a directive purposefully, recklessly, negligently or without due regard for the explicit and connotative meanings in official directives.

**Performance File:** A file on each member containing supervisor notations on the member=s positive and negative performance history and used to aid in accurate appraisals, award recognition and disciplinary considerations.

#### Procedure:

##### 1 Policy

- 1.1 The purpose of disciplinary action is to correct and deter undesired conduct or behavior, improve member performance and maintain the integrity and discipline of the organization.
- 1.2 It will be incumbent upon management to ensure that fair enforcement decisions will be made in the use of disciplinary or termination action. Management will not illegally discriminate against members and will treat them equitably when making decisions about the appropriate type of intervention to use in correcting a performance deficiency.
- 1.3 The amount and degree of administrative intervention will be based on equity. Factors used to determine equity include, but are not limited to, the following:
  - 1.3.1 The seriousness of the deficiency or offense;
  - 1.3.2 Management's expectation that the type and level of administrative action will improve the member's future performance;
  - 1.3.3 Member's overall conduct, work productivity, time between other violations and behavior record;
  - 1.3.4 Management's expectation that the type and level of administrative action will facilitate or deter the conduct, work proficiencies or behaviors of others;
  - 1.3.5 Member's seniority;
  - 1.3.6 The overall negative impact on the Department caused by the incident.
- 1.4 Member culpability is an important element in the decision to use disciplinary action. Performance deficiencies caused by member culpability show a lack of regard for the department's mission as well as for management's priorities; therefore, they are treated more seriously than errors that are committed due to lack of knowledge or ability, even though the results may be similar.
- 1.5 Administrative hearings will be conducted in all disciplinary cases involving non-probationary members where suspension, demotion or termination is being considered. Administrative hearings will be conducted as per Policy Directive 22-3.

##### 2 Corrective Action

- 2.1 All alleged or suspected member misconduct that is brought to the attention of any Department member shall be reported to a supervisor as soon as practical.
- 2.2 All supervisors shall be responsible for detecting and documenting those instances and actions that reflect positively or negatively on a member's performance. This includes but is not limited to:
  - 2.2.1 Investigation of allegations of misconduct within the scope of their responsibility;
  - 2.2.2 Counseling members to improve job performance or correct minor infractions and procedures;
  - 2.2.3 Identifying training needs as a function of the disciplinary process;

- 2.2.4 Recognizing superior and/or improving performance;
- 2.2.5 Cases of minor deficiencies caused by lack of supervision or training;
- 2.2.6 Negligent behavior that has minimal impact on department.
- 2.3 A minor infraction requiring supervisory consultation, but not severe enough to warrant disciplinary action will be documented on a Performance Notation Form and placed in the member's performance file by a supervisor. Supervisors shall not make an entry into a member's performance file without first advising the member of the offense being documented.
  - 2.3.1 Members should be advised that repeated offenses will result in harsher actions as provided herein.
  - 2.3.2 Members may request to see their performance file at any time.
- 2.4 Unit/Area commanders will ensure that each member under his/her command has a performance file, and that both positive and negative performance notations are being documented.
  - 2.4.1 Performance files shall be transferred to a member's new commander in the event of the member's transfer.
  - 2.4.2 Supervisors will make themselves aware of any performance notations concerning any new or existing member under their command.
  - 2.4.3 For confidentiality, files will be accessible only to a member's supervisor(s).
  - 2.4.4 Two or more supervisory consultations involving negative performance notations for similar conduct during a one year period require additional documentation in the form of a personal conference memo.
  - 2.4.5 Three or more negative performance notations for unrelated conduct in a one year period will necessitate the completion of a *personnel conference memo* including a recommendation of disciplinary action from the member's supervisor.
- 2.5 Entries in the performance file shall remain for a period of three years, at which time the member's Unit Commander shall remove and destroy such entries.
- 2.6 When performance results are not serious enough for disciplinary action but require a more formal type of intervention than supervisory consultation, counseling is the proper tool to help the member. [CALEA 26.1.4b]
  - 2.6.1 Counseling is not a form of discipline, but rather the last tool management has available to assist a member in correcting deficiencies before disciplinary action is administered.
  - 2.6.2 Counseling shall be documented on a Personnel Conference Memo as per Policy Directive 20-10, which will be included in the member's personnel file.
  - 2.6.3 A copy of the Personnel Conference Memo shall also be retained in the member's performance file.
- 2.7 Additional training is the preferred alternative to disciplinary action when unacceptable conduct, behavior or performance is caused by a lack of skills or abilities that the typical member would not be expected to possess. [CALEA 26.1.4a]

### **3 Disciplinary Procedure**

- 3.1 When a member's misconduct or performance deficiency has not been corrected by supervisory counseling and training or is significant enough as to warrant a higher level of intervention or sanction, supervisors shall document the behavior on a personnel conference memo and forward it through the chain of command to the Chief of Police. [CALEA 26.1.4c]
  - 3.1.1 The personnel conference memo shall include a recommendation of disciplinary action commensurate with the offense or behavior at issue.
  - 3.1.2 Supervisors may recommend a written warning or a written reprimand. If in the supervisor's best judgment a higher level of discipline is warranted, the supervisor shall recommend an administrative hearing.
  - 3.1.3 All personal conference memos containing a recommendation for a disciplinary action or administrative hearing shall be reviewed and signed at each level of the chain of command.
  - 3.1.4 A copy of the Personnel Conference Memo shall be retained in the member's performance file.
- 3.2 Conduct that warrants disciplinary action includes, but is not limited to, the following:
  - 3.2.1 Infractions, that if known to the public, could tarnish the image of the organization;
  - 3.2.2 Infractions that damage the credibility or integrity of any member;
  - 3.2.3 Any act, or omission to act, that creates a risk of liability to the department;
  - 3.2.4 Any act, or failure to act that compromises the safety of any person;
  - 3.2.5 Violations of policies or standards of conduct;
  - 3.2.6 Performance deficiencies that have not been corrected by supervisory intervention;
  - 3.2.7 Any criminal offense.
- 3.3 Disciplinary actions that may be imposed on a member include, but is not limited to, the following:
  - 3.3.1 Written Warning - The least intrusive form of discipline reserved for minor infractions and is recorded in the members personnel file.
  - 3.3.2 Written Reprimand - Utilized when a warning is deemed insufficient for the member's behavior or performance but does not rise to the level of pecuniary penalty.

- 3.3.3 Suspension - Member forfeits salary for up to 30 calendar days for misconduct considered to be serious in nature or part of a continuing pattern of behavior involving repeated misconduct.
- 3.3.4 Demotion in Pay – Member's rate of compensation is reduced for a specified period of time and shall be commensurate with the offense as determined by the Chief of Police.
- 3.3.5 Demotion in rank - A reduction in rank or grade when a member exhibits unsatisfactory performance or conduct in one position but shows promise of becoming a valued member in another position.
- 3.3.6 Dismissal - Terminating a member's employment when member has demonstrated an inability to perform satisfactorily, when a lesser disciplinary action does not address the severity of the offense, when the member's credibility has been compromised, or the employment relationship has been severely damaged.
- 3.4 This policy does not include every contingency and should not be considered a contract. The Chief of Police reserves the right to depart from policy as necessary to ensure the administration's ability to administer fair and equitable punishment as needed. In all cases involving punitive action, the Chief of Police has the final authority.
- 3.5 Complaints and actions covered by PD 4-2, PD 4-5 and PD 22-1 are unaffected by this policy and will be handled in accordance with the procedures set forth in those policies.

#### **4 Responsibilities [CALEA 26.1.5]**

- 4.1 Unacceptable conduct or behavior by any member can reflect poorly on this agency as a whole. Members are required to inform a supervisor concerning any known violations of policy, standards of conduct, or any local, state or federal laws by any member of this department.
- 4.2 First line supervisors have the best opportunity to observe the conduct and appearance of employees and detect those instances when disciplinary actions are warranted. Supervisors should, at a minimum:
  - 4.2.1 Familiarize themselves with the employees under their supervision and closely monitor their conduct and appearance on a daily basis;
  - 4.2.2 Remain alert for indications of behavioral problems or changes in normal job performance. Such information should be documented in the member's performance file;
  - 4.2.3 Assess situations and determine the most appropriate action when it is perceived that an employee is having or causing problems;
  - 4.2.4 Counsel members to improve job performance or correct minor infractions. Supervisors should also document the effects of said counseling;
  - 4.2.5 Identify training needs as a function of the disciplinary process;
  - 4.2.6 Maintain adequate documentation in every member's performance file in order to accurately complete personnel conference memos on improving or declining performance. Proper documentation is also essential for the completion of performance appraisals and member service awards;
  - 4.2.7 Supervisors are authorized with a degree of flexibility in addressing performance or conduct deficiencies. With this discretion, supervisors are responsible for assessing the appropriate corrective intervention;
  - 4.2.8 Supervisors must make corrective decisions equitably and without bias;
  - 4.2.9 Ensure that all members reporting for duty are fit for duty and relieve from duty those members who are not; Ensure that respective unit and/or division commanders are kept apprised.
- 4.3 Unit/Area Commanders are responsible for policy compliance and conduct for the area/unit and:
  - 4.3.1 Shares First line supervision responsibilities;
  - 4.3.2 Ensures First line supervisor responsibilities related to performance and discipline are fulfilled diligently and equitably.
  - 4.3.3 Develop, monitor and enforce performance improvement plans for substandard performance within the unit;
  - 4.3.4 Review personnel conference memos and forward to respective Division Commander when approved; and
  - 4.3.5 Ensure that performance or conduct issues are forwarded to the respective Division Commander for action when severity warrants or unit level correction has not been satisfactorily achieved.
- 4.4 It is management's responsibility to assure members that when discipline is used, it will be used only for just cause and will follow a due process procedure but will not be used in a discriminatory or capricious manner.
- 4.5 Management is responsible for providing direction to line supervisors and unit/area commanders in the formulation of conduct and job performance standards.
- 4.6 Division Commanders are responsible for reviewing all personnel conference memos to ensure the equitable application of all disciplinary action recommended by supervisors in their command.
  - 4.6.1 Division Commanders shall provide guidance and direction to supervisors in their command concerning specific member misconduct and respective consequences.
- 4.7 Division commanders shall provide supervisors with feedback concerning personal conference memos with regard to the following:
  - 4.7.1 Does the Personnel Conference Memo contain sufficient cause to justify response taken or recommended?
  - 4.7.2 The equity of the recommended action?

4.7.3 The likelihood that the recommended action will improve the member's performance or behavior?

4.8 The Chief of Police will be the final level in the chain of review and may or may not concur with findings and/or recommendations of disciplinary action.

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