



DEPARTMENT RULES

FC No.: 300

Date: 6-11-20

If a provision of a regulation, departmental directive, rule, or procedure conflicts with a provision of the contract, the contract prevails except where the contract provision conflicts with State law or the Police Collective Bargaining Law. (FOP Contract, Article 61)

Contents:

- I. Policy
- II. Definitions
- III. Department Rules
- IV. Exemptions
- V. CALEA Standards
- VI. Proponent Unit
- VII. Cancellation

I. Policy

The policy of the department is to ensure that all employees maintain an exemplary standard of personal integrity and ethical conduct in their relationship with other employees and the community. The recognition that our primary responsibility is to the community requires the understanding that police powers are limited and an officer taking police action, in whatever form, is accountable to the community. The rules contained herein are designed to serve as a professional standard governing employees' conduct. The department also recognizes that employees possess certain basic individual rights. Protection of employee rights enhances the integrity of the department and further promotes the goal of furnishing to the community the highest quality of police services.

II. Definitions

- A. Employee: All personnel, sworn and non-sworn.
- B. Officer: A commissioned (sworn) police officer.
- C. Member: All non-sworn personnel of the Department of Police.

III. Department Rules

A department rule is designed to cover situations in which no deviation or flexibility is permitted. It is the employees' responsibility to familiarize themselves with the following rules:

Rule 1 - Conformance to Law

Employees are required to adhere to Departmental Rules and Regulations, Departmental Directives and Memoranda, Montgomery County Personnel Regulations, County Administrative Procedures, Executive Orders, Montgomery County Code, and to conform to all laws applicable to the general public.

Rule 2 - Authority to Suspend

The Chief of Police, officer-in-charge of a respective unit or other persons designated by the Chief, may temporarily suspend, with pay, an employee from duty and/or require the surrender of credentials and/or issued weapons. Emergency suspension without pay, as well as subsequent procedures in the case of police officers, will be in accordance with the Law Enforcement Officer's Bill of Rights (Md. Code, Public Safety Article, § 3-101 through 3-113 and the Montgomery County Personnel Regulations, as appropriate).

Rule 3 - Compliance with Orders

- A. Employees will obey a superior's lawful order. Should a superior issue an order which conflicts with a previously issued order or directive, the employee should respectfully call attention to the conflicting order and, if not rescinded by the superior, the order will stand. The responsibility for the order will rest with the issuing superior and the employee will not be answerable for disobedience of any previously issued order.
- B. Superiors will not issue any order which they know would require a subordinate to commit any illegal, immoral, or unethical acts.
- C. Employees will not obey any order which they know would require them to commit illegal, immoral, or unethical acts.
- D. Employees will also obey a lawful order which has been relayed from a superior by an employee of the same or lesser rank.

Rule 4 - Abuse of Process

- A. Employees must not intentionally manufacture, tamper with, falsify, destroy, or withhold evidence or information, nor make any false accusations or statements regarding a criminal charge for the purpose of influencing the outcome of any investigation or subsequent trial.
- B. Employees are prohibited from providing confidential information concerning department investigations, *intelligence*, or operations to any unauthorized person.
- C. Employees are prohibited from providing confidential information obtained from the Criminal Justice Information System (CJIS), Motor Vehicle Administration (MVA), National Crime Information Center (NCIC), or any other source to any unauthorized person, except in the performance of their duties and in accordance with proper police procedure and law.
- D. Department-accessed computer databases will only be used for legitimate law enforcement purposes. A legitimate law enforcement purpose is any purpose that directly pertains to the performance of an employee's duties.

Rule 5 - Abuse of Authority

The lawful authority entrusted to police officers will not be used improperly to interfere with the lawful conduct of anyone. All officers must carry out their duties in a nondiscriminatory manner.

Rule 6 - Use of Force

Officers will use force only in accordance with law and departmental procedures and will not use more force than is objectively reasonable to make an arrest, an investigatory stop/detention or other seizure, or in the performance

of their lawful duties, to protect themselves or others from personal attack, physical resistance, harm, or death. No officer will use force in a discriminatory manner.

It shall be the duty of every officer present at any scene where physical force is being applied to either stop, or attempt to stop, another officer when force is being inappropriately applied or is no longer required.

Rule 7 - Reporting Requirements

- A. Employees shall immediately report, or as soon as practical, to their commander/director or bureau chief, any circumstance where the employee is:
 - 1. Arrested;
 - 2. Becomes a defendant in any criminal proceeding that may result in incarceration;
 - 3. Receives an incarcerable traffic citation as defined in the Maryland Transportation Article;
 - 4. Has their driver's license/privilege suspended, revoked, refused or canceled that affects their ability to operate a county vehicle;
 - 5. Notified that they are the subject of a criminal investigation by any law enforcement agency;
- B. Employees shall immediately report, or as soon as practical, to their commander/director or bureau chief to be reviewed to determine if the matter impacts the employee's ability to perform their assigned police duties; if they were served with:
 - 1. Temporary protective order, temporary ex parte order, or other similar temporary order that impacts the employee's ability to carry a weapon or to perform their assigned police duties or any permanent protective order, permanent ex parte order or other similar permanent order that impacts the employee's ability to carry a weapon or to perform their assigned police duties;
- C. The employee shall provide the commander/director or bureau chief with the information (i.e. date/time/location of the alleged offense, case/docket/tracking number) required for the employer to obtain additional needed information.
- D. All information shall be considered confidential and shall only be shared on a need to know basis. It is recognized that all persons are presumed innocent until proven guilty.

Rule 8 - Punctuality

- A. Employees of the department will be punctual in reporting for duty at the time and place specified by their supervisor.
- B. No employee will be absent from duty without leave or without authorization from the employee's supervisor.
- C. No employee will leave the work site prior to the end of the scheduled workday without the approval of a supervisor.
- D. An employee who fails to report for duty as scheduled or who leaves the work site prior to the end of the scheduled work day without the approval of a supervisor may be considered absent without leave and placed in a non-pay status for the period in question and be subject to appropriate disciplinary action.

Rule 9 - Attentiveness to Duty/Use of Alcohol/Drugs

- A. To ensure each employee's own protection and the protection of citizens and fellow employees, employees will remain awake and alert while on duty.

- B. Employees will not consume alcohol while at work or on duty, except while acting under the proper and specific orders of a superior officer.
- C. Alcoholic beverages will not be consumed while wearing any part of the uniform. Further, all employees are prohibited from operating a county vehicle while, or within four hours after, consuming alcoholic beverages.
- D. An officer will not exercise any police authority, take any official police action or represent himself as a police officer while impaired by, or under the influence of, alcohol or drugs. Impairment is defined as having a blood alcohol level (BAC) of .05% or higher. Under the influence is defined as having a BAC of .07% or higher.
- E. Officers will not be armed while impaired by, or under the influence of, alcohol or drugs.
- F. Employees will not take any narcotic or controlled dangerous substance unless prescribed by a physician.
- G. Employees taking prescription medication prior to or while on duty will notify their supervisor of the medication prescribed.

Rule 10 - Telephone Maintenance

Employees are required to maintain a telephone at their residence and inform the department of their telephone number. Any change of telephone number will be communicated to the department within 24 hours.

Rule 11 - Carrying of Credentials and Identification

- A. Officers will carry their department credentials while on duty and while off duty when armed unless exempted by the Chief of Police. Credentials will be displayed upon request.
- B. Members of the department will carry their credentials while on duty. Credentials will be displayed upon request.
- C. Employees will furnish their full name and identification number to all persons who request same when the employee is acting in an official capacity.

Rule 12 - Gratuities

No compensation, reward, gift, or other consideration may be solicited or accepted by employees without special permission from the Chief of Police.

Rule 13 - Secondary Employment

- A. Non-Represented Employees and MCGEO Bargaining Unit Members
 - 1. No employee of the Department of Police will engage in any other employment without the prior written approval of the Chief of Police and the County Ethics Commission.
 - 2. Employees will not engage in secondary employment during the actual hours for which they are scheduled to work for the county, while on approved sick leave, FMLA, parental leave, disability leave, administrative leave, professional improvement leave, or while on duty.

3. Uniform off-duty security employment is prohibited if the officer's police powers are suspended or revoked, the officer is in a leave without pay status, or the officer is in a leave status defined in section A.2, above.

B. FOP Bargaining Unit Members

Sworn employees who are members of the bargaining unit shall comply with the secondary employment provisions contained in the collective bargaining agreement between the county and the FOP.

Rule 14 - Conduct Unbecoming

No employee will commit any act which constitutes conduct unbecoming an employee of the department. Conduct unbecoming includes, but is not limited to, any criminal, dishonest or improper conduct.

Comments:

As county employees, we are constantly being observed and judged by the community we serve. Improper behavior on the part of any employee, on or off duty, tends to reflect unfavorably on all employees and the department. "Conduct unbecoming" is a highly controversial regulation and often viewed as a "catch-all" offense. Although non-specific, "conduct unbecoming" has been upheld in court for certain acts committed by police officers both on and off duty. The following examples of "conduct unbecoming" have been upheld by various state and federal courts throughout the country: speeding, placing an unauthorized poster in a squad room, lying in a departmental investigation, excessive absenteeism, profane language in public, barroom fighting off duty, ticket fixing, assault on a fellow officer, annoying and/or molesting bar patrons off duty, illegal possession of marijuana, horseplay with firearms, misuse of a police radio to criticize a superior, and the failure to cooperate with an internal investigation. The following examples of conduct which the courts have found not to be unbecoming include: embarrassing the department by neglecting "discretion" and vigorously enforcing municipal ordinances; disrespectful, but private, language to the Chief of Police while under emotional stress; and filing a libel suit. These lists, although not inclusive, further indicate how courts nationally have viewed police conduct both on and off duty. Although these court cases have involved police officers, no employee will commit any act which would reflect unfavorably on the department or county government.

Rule 15 - Soliciting/Endorsements

- A. Employees may not solicit votes or contributions for any prize contest, nor engage in the sale of tickets or the solicitation of advertisements or business of any nature while in uniform or while representing themselves as employees of the department without prior written approval of the Chief.
- B. Employees will not authorize the use of their names, photographs, or official titles which identify them as employees of the department in connection with testimonials or endorsements of any product or particular commercial enterprise.

Rule 16 - Neglect of Duty/Unsatisfactory Performance

A. Neglect of Duty

Employees will maintain sufficient competency to properly perform their duties and assume the responsibilities of their positions.

B. Unsatisfactory Performance

Employees will demonstrate an ability or willingness to perform assigned tasks, take appropriate action in a situation deserving police attention, and conform to work standards established for the employee's rank, grade, or position.

FC No.: 300

Date: 06-11-20

- C. Employees will submit all necessary reports in accordance with established departmental procedures. Reports submitted by employees will be accurate, complete, and timely.

Comments:

Due to the nature of police work, employees must maintain sufficient competency to properly perform their duties and assume the responsibilities of their positions. Repeated poor evaluations or a documented record of reported infractions of the rules, directives, or orders of the department may be considered as evidence of unsatisfactory performance.

Rule 17 - Maintenance of Property

- A. Employees will be held accountable for the proper care, use, and maintenance of all uniforms, vehicles, weapons/firearms, and equipment in their charge.
- B. Employees who lose or damage department property will report in writing such loss or damage to their supervisor. If the employee is incapacitated, the supervisor will file the required report.

Rule 18 - Pay Account Withheld for Unreturned Equipment

Upon separation from the department, employees will promptly return to the Chief, or designee, all county issued property. The Chief of Police is authorized to withhold certification of the employee's pay account until all articles of uniform and equipment have been accounted for.

Rule 19 - Wearing the Uniform

The uniform will be worn by employees only while on duty or going to or from their place of assignment or approved uniformed-secondary employment. Uniforms will be clean and pressed; shoes and metal objects will be shined.

Rule 20 - Mutual Protection

An officer will promptly come to the aid of any officer who, when carrying out official duties, is in need of assistance.

Rule 21 - Untruthful Statements

Employees will not make untruthful statements, either verbal or written, pertaining to official duties.

Rule 22 - Courtesy

Employees will be courteous and discreet to members of the public. Employees will maintain proper decorum and command of temper, and avoid the use of violent, insolent, or obscene language.

Rule 23 - Property

Property and/or contraband coming into the possession of an employee in the employee's official capacity will be reported and properly stored or otherwise disposed of in accordance with department procedures and state and local laws.

Rule 24 - Meal Periods

Officers are considered on duty while on meal periods during their workday.

Rule 25 - Recognition of Plainclothes Officers

No employee of the department will, either visually or verbally, recognize or acknowledge any plainclothes officer until and unless that officer acknowledges them first.

Definition:

A plainclothes officer is any sworn officer who is not working in uniform. This will include Vice and Narcotics officers, Intelligence officers, officers assigned to Investigative Services, Special Assignment Team (SAT) officers, and any uniform officers on special assignment.

Comments:

To provide for the safety of undercover officers and to protect the integrity of investigations, it is imperative that all officers comply with this rule. In regard to this issue, the department recognizes that the initial contact or acknowledgment is normally accidental. This, however, does not reduce the potential for serious repercussions. Particular emphasis is placed on the recognition of officers assigned to the Special Investigations Division because their activities take place in and out of the county, range 24 hours a day, and take place in unexpected locations. Further, it is an accepted tool of law enforcement for these officers to use different identities and not carry police credentials.

Rule 26 - Discrimination/Harassment and Use of Derogatory Language

- A. Employees of the department will not discriminate against, harass, or use derogatory language in referring to any other employee or citizen on the basis of race, color, national origin, religion, sex, or any other basis as prohibited by county, state, and federal law.
- B. Employees will not take nor contribute to any reprisal or adverse action against any individual or group of individuals having opposed discriminatory practices or having participated or assisted in a charge, investigation, or proceeding brought under department policy, or county, state, or federal law.
- C. Supervisors and/or managers of the department will conduct a prompt and candid inquiry into any instance of alleged discrimination or harassment which comes to their attention. All information regarding such allegations will be documented and forwarded to the Internal Affairs Division.
- D. The Montgomery County Department of Police will continue to prohibit officers from exercising their police powers in a manner that unlawfully discriminates against individuals based on race, national origin, gender, religion, or ethnicity. In addition, except in the situation described below, officers will not, to any degree, use the race or national or ethnic origin of drivers or passengers in deciding which vehicles to subject to a traffic stop, or a checkpoint or roadblock stop, and in deciding upon the scope or substance of any action in connection with a traffic stop or a checkpoint or roadblock stop. Where officers are on the lookout for, or are seeking to stop, detain, or apprehend, one or more specific persons who are identified or described in part by race or national or ethnic origin, officers may rely in part on race or national or ethnic origin in taking appropriate action.

Rule 27 - Recommending Attorneys, Bail Bond Services, or Other Services Prohibited

In the performance of their official duties, employees will not suggest, recommend, advise or otherwise counsel the retention of any specific attorney, bail bond service, towing service, or any other specific service to any person coming to their attention as a result of police business.

Comments:

FC No.: 300

Date: 06-11-20

The intent of this rule is to prohibit employees from making suggestions, recommendations, etc., for any specific attorney, bail bond service, etc., by name. General references such as informing defendants they should retain an attorney or seek legal assistance are acceptable. When employees are the subjects of internal administrative investigations, they should be advised they have the right to representation and to contact union representatives. Specific representation, i.e., shop steward or attorney, will be determined by the appropriate union in consultation with the employees.

IV. Exemptions

In certain instances, the Chief of Police may exempt individuals or units from complying with specific rules contained in this directive. Such exemptions will be made on a case-by-case basis in recognition of individual or unit requirements for the performance of their job.

V. CALEA Standards: Chapters: 1, 12, and 26

VI. Proponent Unit: Office of the Chief

VII. Cancellation: This directive cancels Function Code 300, effective date ***10-10-18***.



Marcus G. Jones
Chief of Police