



OFFICE OF THE COUNTY SHERIFF
Montgomery County, Maryland
Darren M. Popkin, Sheriff



GENERAL OPERATIONAL PROCEDURES

<u>Subject:</u>	<u>Number:</u>	<u>Effective Date:</u>
Disciplinary Process for Civilian Employees	2.04	09/11/15

Purpose: This directive sets forth policy and procedure regarding the investigation and disciplinary process for civilian employees of the Sheriff's Office. *These procedures also apply to deputy sheriff candidates and probationary deputies. (26.1.4c)*

The disciplinary procedures for deputy sheriff candidates, probationary deputies and non-union civilians are outlined in the Montgomery County Personnel Regulations (MCPR). The disciplinary procedures for civilian union members are addressed in the Agreement between Montgomery County Government Employees Organization (MCGEO) Local 1994 and the Montgomery County Government. Anything not addressed in the MCGEO agreement for union members will revert to the MCPR. Procedures for probationary deputies charged with brutality will be in accordance with the Law Enforcement Officers Bill of Rights (LEOBR).

A disciplinary action against an employee must be initiated promptly when it is evident that the action is necessary to maintain an orderly and productive work environment. Except in cases of theft or serious violations of policy or procedure that create a health or safety risk, disciplinary actions must be progressive in severity. However, the Sheriff may impose discipline at any level based on cause. Discipline should be progressive in nature.

The procedures for the initial filing of complaints, assignment of complaints, notification of complainants, Office of Professional Responsibility (OPR) notification for serious incidents, internal reports, and record keeping are outlined in General Operational Procedures 2.03, Disciplinary Process for Sworn Employees.

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I. Authority in Disciplinary Matters

The Sheriff has authority for disciplinary action involving **all** Sheriff's Office personnel.

II. Definitions

- A. Civilian Employee: Any non-sworn employee including deputy sheriff candidates.
- B. Deputy Sheriff Candidates: Sheriff's Office employees who are assigned to a law enforcement training academy but who are in a non-sworn status.
- C. Disciplinary Action: An adverse personnel action against an employee. Adverse actions include; oral admonishment, written reprimand, forfeiture of annual leave or compensatory time, with-in grade salary reduction, suspension, suspension pending investigation of charges or trial, demotion, or dismissal. These terms are defined for union members in the MCGEO contract and for non-union members in the MCP.R.
- D. Probationary Deputy: A sworn deputy who has not has not obtained merit status. Merit status is usually attained one (1) year after graduation from a law enforcement training academy program.
- E. Union Member: a person who works under the County government merit system on a continuous full-time, career or part-time basis as a member of MCGEO.

III. Investigative Examinations

- A. Notification of Investigation (52.2.5)

Prior to any *investigative examination* of an employee under investigation, the employee must be notified in writing of the nature of the investigation, *the charge being considered*, and the employee's rights by utilizing *an Internal Investigation Notification Memorandum*.

- B. Representation

If an employee, who is a member of MCGEO, makes a request for union representation during a disciplinary examination, the supervisor must delay the examination for a reasonable period of time, not to exceed *one hundred and twenty (120) minutes*, for the employee to arrange representation. The right to representation applies only when the employee believes that the examination may result in disciplinary action against them and when the employee requests representation. An employee who is examined as a witness or third party in an investigation or who is being counseled regarding conduct, performance or any similar or like work-related matter is not entitled to union representation.

- C. Record of Interview

If the interview *is* recorded, a copy of the recording or transcript *will* be provided upon the request of the employee under investigation.

- D. Interrogation Rights and Waiver Form

If the employee being interviewed is under arrest they must be informed of their Miranda rights prior to the commencement of the interview.

IV. Statement of Charges

- A. If the investigation indicates that a disciplinary action, other than an oral admonishment, may be warranted, a Statement of Charges must be executed prior to final action being taken *and should be issued within 30 days of the date on which a supervisor became aware of the employee's conduct, performance, or attendance problem. (52.2.3)*
- B. The Sheriff or the Sheriff's designee must provide the employee a copy of the charges and allow the employee *a reasonable period of time to respond, which must be not less than ten (10) workdays.*
- C. *If the employee responds to the Statement of Charges, the Sheriff must carefully consider the employee's response and decide a course of disciplinary action or no action at all. The Sheriff must issue a new statement of charges if the Sheriff decides that a more severe disciplinary action is appropriate. The employee may be represented by another when responding to the statement of charges. A Statement of Charges will conform to Montgomery County Personnel Regulations 33-6.*
- D. For employees who are members of MCGEO, the Statement of Charges must contain the following language at the bottom of the last page of the document:

NOTICE TO BARGAINING UNIT EMPLOYEES

You are entitled to be represented in this matter by Municipal and County Government Employees Organization, UFCW Local 1994, AFL-CIO (Union). If you wish a copy of this document sent to the union, indicate by checking the appropriate space below:

_____ I do wish the union to receive this document
 _____ I do not wish the union to receive this document

Employee's Signature

Date

- E. Upon request, the Sheriff's Office will provide MCGEO copies of all supporting documentation concerning a disciplinary action of a union member.

V. Alternative Dispute Resolution

A civilian union member may request to utilize the Alternative Dispute Resolution (ADR) process.

VI. Disposition

- A. An investigation must result in no punitive action where the employee's conduct was exonerated or when there is not substantial evidence of misconduct found.
- B. In all *sustained disciplinary* cases, the employee must be informed why their conduct is inappropriate, what needs to be done to change, and what action will occur if changes are not made.
- C. *In cases of within-grade reduction, demotion, suspension and dismissal, the employee must receive written notice of the disciplinary action at least five (5) working days prior to the effective date, except in cases of theft of County property or serious violations of policy or procedure that create a health or safety risk.*
- D. If *the punishment for* misconduct is dismissal, the *Sheriff's final order* will include the following information:
 - (a) A statement citing the reason for the dismissal: **(26.1.7.a)**
 - (b) The effective date of the dismissal; **(26.1.7.b)**
 - (c) The status of retirement and other employment benefits after dismissal. *This is confidential information under Maryland law and is provided to the employee by the Montgomery County Office of Human Resources. (26.1.7.c)*
- E. *A Notice of Disciplinary Action Memorandum for non-union members must conform to Montgomery County Personnel Regulation 33-6.*

VII. Suspension

- A. *The Sheriff may not suspend an employee for more than thirty days, unless:*
 - (1) *A longer suspension is imposed by a court or quasi-judicial body; or*
 - (2) *The employee agrees to the longer suspension as part of a settlement agreement.*
- B. *Employees may be placed on LWOP and suspended for an indefinite period pending investigation of chargers or trial while:*
 - (1) *Being investigated by the County or a law enforcement agency for an offense that has a nexus with is reasonably related to County employment; or*
 - (2) *Waiting to be tried for an offense that is job-related or has a nexus with County employment.*

VIII. Appeals (26.1.6)

An employee may appeal *any* disciplinary action, *with the exception of oral admonishments and written reprimands*, subject to the applicable requirements of the following:

- A. Personnel Regulations, Section 34, Grievances.
- B. Personnel Regulations, Section 35, *Merit System Protection Board Appeals, Hearings, and Investigations*.
- C. Any applicable collective bargaining agreement *for MCGEO members*.

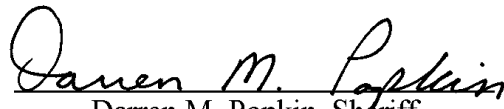
IX. CALEA Standards

26.1.4.c, 26.1.6, 26.1.7.a, 26.1.7.b, 26.1.7.c, 52.2.3, 52.2.5

X. Cancellation

This directive cancels and replaces General Orders /Personnel Procedures 2.04, Disciplinary Process for Civilian Employees, Effective Date: 06/02/00.

AUTHORITY:


Darren M. Popkin, Sheriff
09/11/2015