

	Administrative General Order	2.07 Discipline	PAGE 1 OF 9
	SUBJECT		EFFECTIVE DATE
	Virginia Beach Police Department General Order Chapter 2 - Personnel Information		06/13/2018
			ORIGINATOR/REVIEW
DISTRIBUTION		Chief's Staff	
ALL		CALEA: 26.1.2, 26.1.4, 26.1.5, 26.1.6, 26.1.7, 26.1.8	
BY THE AUTHORITY OF THE CHIEF OF POLICE:		<i>James A. Curran</i>	

Purpose

To set forth the philosophy and practices of the Virginia Beach Police Department as it relates to promoting discipline throughout the organization.

Definitions

Discipline - orderly or prescribed conduct or pattern of behavior; or compliance with a system of rules, policies, or values governing conduct or activity.

Disciplinary Action – those actions taken by supervisory personnel designed to correct behavior that is in violation of organizational rules, policies, or values.

Memorandum of Charges – the first written procedural step in the process for imposing disciplinary action. In accordance with the Law Enforcement Procedural Guarantees, the memorandum of charges shall include, at a minimum, the following:

1. The name of the employee and the name of the supervisor placing the charge(s);
2. A description of the conduct that constitutes a violation of policy or unsatisfactory conduct, including the names of witnesses, if applicable;
3. Identification of the specific rule or policy that is alleged to be violated, or an explanation of why the conduct constitutes unacceptable behavior.
4. A statement outlining what steps management has taken to assist the employee, if applicable;
5. A summary of any relevant previous disciplinary action, if applicable, which may influence the current situation.

Notice of Disciplinary Action - the second written procedural step in the two-step process for imposing disciplinary action. In accordance with the Human Resources Discipline Policy and Procedure, No. 4.02, the notice of disciplinary action shall include, at a minimum, the following:

1. A statement specifically describing the action to be taken, and the reason for that action;
2. A summary of employee’s response to the charges, if any;
3. A statement that further disciplinary action may be taken for future problems with unsatisfactory performance or misconduct, and
4. A statement of the employee’s rights under the City’s Grievance Policy and Procedure, Open Door Policy, and, if applicable, the Law Enforcement Officer’s Procedural Guarantees.

Policy

Organizational discipline within the Virginia Beach Police Department is crucial to the accomplishment of the agency's mission. The Virginia Beach Police Department has established a variety of systems designed to promote and reward behaviors by employees that exemplify organizational values and promote the public trust. Alternatively, the agency has also established systems to correct behaviors by employees that are contrary to the mission, values, and policies of the Department.

Promoting Positive Organizational Discipline (CALEA 26.1.2)

The City of Virginia Beach and the Virginia Beach Police Department are complex organizations committed to public service. A variety of systems, rules, policies, and procedures are established to guide the work of employees. The following delineates the varied options for supervisors to utilize in promoting discipline and positive job performance by employees.

City of Virginia Beach Award Programs

The City of Virginia Beach City Manager's Office and the Department of Human Resources sponsor service awards to recognize employees' years of service. Supervisors are encouraged to recognize employee performance by submitting PD-19, Class Act Nomination, through the chain of command to the Chief for presentation to the employee at a command staff meeting. Additional guidance regarding employee recognition can be found in Administrative Directive 1.21, Employee Recognition.

Letters of Appreciation or Recognition

A letter of appreciation or a letter of recognition may recognize job performance that exceeds the expectations of a citizen or the organization. Letters of appreciation are those letters, regardless of format, received from citizens, civic or private organizations that express appreciation for services rendered by police employees. Letters of recognition are those letters that express appreciation for assistance rendered to law enforcement agencies outside of the Virginia Beach Police Department or written by supervisors within the Virginia Beach Police Department to document performance that exceeds job expectations.

Supervisors and employees must exercise care when writing letters of recognition to ensure that the performance or actions documented exceed normal job expectations; additionally, supervisors may want to consider recognition through the police awards program.

All letters will be forwarded to the commanding officer, via chain of command, of the employee recognized for review and proper classification. After review, letters will then be forwarded to the employee for signature of receipt. Once returned to the commanding officer with employee's signature a brief entry will be made into the employee's PISTOL file. The PISTOL page will then be printed off and updated in the employee's personnel file. The original will be then be forwarded to the employee. A copy of the letter will not be maintained in the division/bureau/precinct file or the chief's office personnel file.

Response to letters of appreciation or recognition letters will be done only at the direction of the chief, deputy chief, or commanding officer and on a case-by-case basis.

Performance Evaluation

As described in General Order 2.10 (Performance Feedback) and in accordance with Human Resources Performance Management Policy, No. 6.07, the performance feedback system is a means by which employees and supervisors review performance as it relates to the mission and values of the Department and assess needs for training and career development. The performance evaluation system promotes organizational discipline through the review of accomplishments, needs, and future plans for the development of the employee. In order to harmonize the need to have a holistic evaluation of an employee's performance, any sustained outcome involved in an internal or citizen complaint will be documented in the employee's next performance feedback report.

Training (CALEA 26.1.4 A)

Training of agency personnel in the performance of duties is fundamental to organizational discipline. Training communicates standards and identifies behaviors that define the expectations of the agency. Training in job related functions is mandatory for personnel entering the agency. Periodic in-service training is mandated for certain positions throughout the organization. In situations where desirable standards relating to job performance or behaviors are not met, training or remedial training may be utilized as a means for increasing the level of performance by employees. Such retraining will be in the interest of promoting organizational discipline, but not considered disciplinary action.

Supervisors who wish to provide remedial training to employees may arrange for and schedule the training through the Office of Professional Development and Training. Attendance and completion of the remedial training will be documented by the employee's supervisor.

Counseling (CALEA 26.1.4.B)

The City of Virginia Beach and the Virginia Beach Police Department promotes open communication in the workplace. Supervisory personnel are encouraged to maintain open lines of communication with employees at all times. In situations where desirable standards relating to job performance or behaviors are not met, counseling by the supervisor on performance standards and job expectations is often an appropriate remedy. While counseling may be documented by a supervisor, counseling shall not be placed in an employee's Official Personnel File and is not considered disciplinary action.

Corrective Disciplinary Action (CALEA 26.1.4 C, 26.1.5)

Supervisors should explore various methods of changing unsatisfactory work-related behavior as often there are alternatives to disciplinary action that can bring about the desired effect. Examples could include, but are not limited to, interim performance feedback reports and work plans designed to direct improvement. Should disciplinary action be necessary, the minimum penalty necessary to bring about the desired result should be applied. Based on varying circumstances, however, a supervisor may exercise discretion in determining the degree of disciplinary action that should be imposed. In accordance with the Human Resources Discipline Policy and Procedure, No. 4.02, disciplinary action should be applied in a progressive manner with more severe penalties being applied where lesser penalties have failed to correct the unsatisfactory conduct or the conduct is egregious.

There are examples of unsatisfactory conduct that are serious enough to warrant severe disciplinary action, up to and including dismissal, even for a first offense. These include, but are not limited to, criminal violations, untruthfulness, insubordination, improper use of weapons, or other conduct that endangers the public or other employees, or brings the city or police department into disrepute.

The Human Resources Coordinator is available for consultation regarding the determination of discipline. In cases of serious disciplinary action (forty hours suspension or greater) or when other legal issues exist such as use of FMLA leave, disability issues, discrimination complaint, etc., commands are required to not only discuss the case with the Human Resources Coordinator, but also to coordinate a review of all correspondence to the employee (the Memorandum of Charges and Notice of Disciplinary Action) with both the Human Resources Coordinator and the Human Resources Attorney in the City Attorney's Office.

An employee must be advised of the allegations and given an opportunity to respond to allegations prior to the imposition of disciplinary action. Employee input regarding both the allegations and the proposed disciplinary action is essential. For sworn Police Officers and Animal Control Officers, the Law Enforcement Officer's Procedural Guarantees, as provided for by the Code of Virginia must be adhered to before disciplinary action more serious than a reprimand is imposed. The procedures for taking disciplinary action described herein are in accordance with the Law Enforcement Officer's Procedural Guarantees.

Any supervisor who recommends disciplinary action greater than that which he or she is authorized to administer should forward the **Disciplinary Action Cover Sheet (PD-4)**, the **Memorandum of Charges**, his or her recommendation and the employee's response through the chain of command until it reaches that level authorized to impose such disciplinary action. If the official authorized to impose such action disagrees with the recommendation provided by the supervisor, he/she should consult with that supervisor prior to making a final determination. Once the disciplinary action is determined, the official authorized to impose such action shall draft the **Notice of Disciplinary Action** and return it to the employee via the Chain of Command for signature.

Disciplinary actions should be administered without undue haste, but as quickly as reasonably possible following the unacceptable conduct. Imposition of suspensions or more serious disciplinary action may be delayed pending the outcome of the appeals process, should the employee decide to appeal the disciplinary action.

Written Reprimand

A written reprimand is the first level of disciplinary action taken by a supervisor against an employee. A written reprimand is written documentation provided to the employee from the supervisor advising and cautioning the employee in reference to his or her unsatisfactory conduct. Written reprimands are documented in an employee's Official Personnel File.

All supervisory personnel have the authority to issue a written reprimand. As is the case with all disciplinary action, supervisors should review the actions of the employee and the appropriateness of the written reprimand with their supervisor prior to taking such action. The purpose of the review is to ensure consistency in the application of discipline throughout the agency. The review prior to the application of discipline should be kept to a minimum to ensure a swift yet fair response to employee misconduct requiring disciplinary action.

The procedure for imposing disciplinary action in the form of a written reprimand is to issue the **Memorandum of Charges** document and the **Notice of Disciplinary Action** document to the employee. Both documents may be issued to the employee at the same time, and may be combined into one document provided all of the required information is included.

In accordance with the Human Resources Discipline Policy and Procedure, No. 4.02, after eighteen (18) months free from further disciplinary action, a written reprimand shall not be considered for purposes of

future disciplinary action and may be purged from the official personnel file. Employees may request that discipline be purged through written request, pending approval by both the Chief of Police and the HR Director. Employees shall utilize police form PD-4PR, Request to Purge Recorded Discipline, to request such.

Suspension

A suspension from duty is the next level of disciplinary action that can be taken by a supervisor against an employee. A suspension is a temporary prohibition of an employee to perform his or her duties. An employee shall not receive pay during any period of suspension and shall not be permitted to use leave. Any sworn Police Officer or Animal Control Officer who is suspended for any amount of time must surrender his/her badge, departmental identification and service weapon to their immediate supervisor prior to commencing the suspension. During any period of suspension, the employee may not take any police action or engage in any police related part-time employment. Before issuance of a suspension there must be a pre-determination meeting. The employee must receive written notice (email or memo) confirming the appointment for the pre-determination meeting twenty-four hours in advance of the meeting date and time. The written notice must also specify that suspension is the recommended course of action.

Supervisors have authority to impose suspensions upon approval by the chain of command as follows:

1. Sergeants or first line supervisors may impose reprimands and suspensions up to ten (10) work hours (or one full shift for employee's on other than ten (10) hour workdays).
2. Lieutenants or equivalent civilian supervisors and above may impose reprimands and suspensions up to twenty (20) work hours.
3. Precinct/Bureau commanders may impose reprimands and suspensions up to forty (40) work hours.
4. Division Commanders or the Civilian Support Manager may impose reprimands and suspensions up to eighty (80) work hours after contacting the Department of Human Resources, Employee Relations Division prior to initiating such discipline, for review and approval in accordance with Human Resources Discipline Policy and Procedure, No. 4.02.
5. Suspensions of 14 consecutive calendar days/ eighty (80) work hours or more will effect the employee's anniversary date, health insurance and leave accumulation. As such, suspensions of 14 days or more must be endorsed by the Chief of Police and approved by the Director of Human Resources.

Exempt employees, under the Fair Labor Standards Act, may not be suspended for less than one workday. Prior to imposing a suspension on an exempt employee, the official imposing such suspension must consult with the Department of Human Resources.

The procedure for imposing all types of disciplinary action is outlined in the Administrative Investigations Field Guide which should be reviewed prior to initiating any disciplinary process and shall be in accordance with the Human Resources Discipline Policy and Procedure, No. 4.02. The process for imposing a suspension to an employee must begin with the issuance of the **Memorandum of Charges** document to the employee along with a **Five Day Letter (PD-4A)**. The employee then has five (5) calendar days to respond either verbally or in writing to the allegations. Following the five day period, a **Notice of Disciplinary Action** is issued by the supervisor. The **Notice of Disciplinary Action** must include a reference to the response by the employee to the **Memorandum of Charges**, or the opportunity to respond if no response was received.

After five (5) years, free from further disciplinary action, a suspension shall not be considered for purposes of further disciplinary action and may be purged from the official personnel file. Employees may request that discipline be purged through written request, pending approval by both the Chief of Police and the HR

Director. Employees shall utilize police form PD-4PR, Request to Purge Recorded Discipline, to request such. based on the employing department's approval.

In accordance with the Code of Virginia, management has the right to place a sworn member on immediate suspension without pay when that member's continued presence on the job is deemed to be a substantial and immediate threat to the welfare of the agency or the public.

Administrative Decrease

An administrative decrease is disciplinary action taken by a supervisor against an employee. An administrative decrease is a wage/salary reduction within the pay range of an employee's class. Administrative decreases must be endorsed by the Chief of Police and approved by the Director of Human Resources. An administrative decrease shall require a letter of justification submitted by the Chief of Police to the Director of Human Resources and shall be subject to the approval of the City Manager.

The procedure for imposing disciplinary action in the form of an administrative decrease is to issue the **Memorandum of Charges** document to the employee along with a **Five Day Letter (PD-4A)**. The employee then has five (5) calendar days to respond either verbally or in writing to the allegations. Following the five calendar day period, but before issuance of an administrative decrease there must be a pre-determination meeting. The employee must receive written notice (email or memo) confirming the appointment for the pre-determination meeting twenty-four hours in advance of the meeting date and time. The written notice must also specify that an administrative decrease is the recommended course of action. Thereafter, a **Notice of Disciplinary Action** is issued by the supervisor. The **Notice of Disciplinary Action** must include a reference to the response by the employee to the **Memorandum of Charges**, or the opportunity to respond if no response was received.

Demotion

A demotion is disciplinary action taken by a supervisor against an employee. A demotion is the reduction of the employee's pay range in conjunction with a change in job duties and responsibilities as a result of his/her unsatisfactory conduct. A demotion must be endorsed by the Chief of Police and approved by the Director of Human Resources. A disciplinary demotion can only be undertaken if the employee involved can qualify for a lower ranked position. If not, other discipline may be considered. Prior to initiating a disciplinary demotion, the Chief of Police must contact the Department of Human Resources for review and approval.

The procedure for imposing disciplinary action in the form of a demotion is to issue the **Memorandum of Charges** document to the employee along with a **Five Day Letter (PD-4A)**. The employee then has five (5) calendar days to respond either verbally or in writing to the allegations. Following the five calendar day period, but before issuance of a demotion there must be a pre-determination meeting. The employee must receive written notice (email or memo) confirming the appointment for the pre-determination meeting twenty-four hours in advance of the meeting date and time. The written notice must also specify that demotion is the recommended course of action. Thereafter, a **Notice of Disciplinary Action** is issued by the supervisor. The **Notice of Disciplinary Action** must include a reference to the response by the employee to the **Memorandum of Charges**, or the opportunity to respond if no response was received.

Dismissal (CALEA 26.1.4 C, 26.1.5, 26.1.7)

A dismissal is disciplinary action taken by a supervisor against an employee. A dismissal is the involuntary separation from employment initiated by the employing authority based on an employee's unsatisfactory

conduct. A dismissal must be endorsed by the Chief of Police and in accordance with Human Resources Discipline Policy and Procedure, No. 4.02, approved by the Director of Human Resources.

The procedure for imposing disciplinary action in the form of a dismissal is to issue the **Memorandum of Charges** document to the employee along with a **Five Day Letter (PD-4A)**. Before issuance of a dismissal, there must be a pre-determination meeting. The employee must receive written notice (email or memo) confirming the appointment for the pre-determination meeting twenty-four (24) hours in advance of the meeting date and time. The written notice must also specify that dismissal is the recommended course of action. At the pre-determination meeting, the department official authorized to terminate the employee he/she shall inform the employee of the reason(s) for the proposed dismissal and the employee shall have the opportunity to answer or rebut the allegations. The department official shall document the meeting. If after such meeting the official concludes that the employee should be dismissed, or if the employee declines to attend such a meeting or to make a statement, a written summary of the meeting and the employee's response, or a statement that the employee was offered a meeting and declined to appear and make a statement, shall be included in the employee's letter of dismissal. Additionally, the letter of dismissal will include the reason for the dismissal, the effective date of the dismissal, and contact information to learn the status of fringe benefits and retirement. Final action to dismiss an employee will not be taken by the Department of Human Resources until such written documentation is received.

No individual shall be reemployed or reinstated who has been dismissed twice from the City of Virginia Beach within the previous five (5) consecutive calendar year period.

Role of Supervisors (CALEA 26.1.5)

1. **Supervisors at all levels of the organization** - Ensure compliance with departmental rules and regulations, and monitor work performance of subordinates; explore alternative ways to improve performance and correct improper conduct prior to imposing disciplinary action; impose disciplinary action as needed within the limits described above.
2. **Lieutenant or equivalent non-sworn supervisor** - Impose disciplinary action beyond that which is delegated to first line supervisors; advise supervisory personnel of alternatives to disciplinary action; assist supervisors in the administration of disciplinary action; and review all disciplinary action administered by their subordinate supervisors to ensure compliance with departmental procedures and guidelines.
3. **Captains or Precinct/Bureau Commanders** - Impose disciplinary action beyond that which is delegated to first line supervisors or lieutenants; monitor all disciplinary action within their command to ensure consistency that is in keeping with departmental and city values.
4. **Division Commanders & Support Division Manager**- Impose disciplinary action beyond that delegated to Precinct/Bureau Commanders; review disciplinary action which occurs within their division to ensure consistency across precinct/bureau lines, review the summary of disciplinary action imposed throughout the Department to ensure consistency between divisions and ensure that discipline is in keeping with department and city values.
5. **Chief of Police** - Impose disciplinary action beyond that delegated to Deputy Chiefs or Support Division Manager

Appealing Disciplinary Action (CALEA 26.1.6)

Any of the disciplinary actions described above may be appealed by the employee utilizing the City of Virginia Beach Open Door Policy, the City of Virginia Beach Grievance Policy and Procedure or, when the discipline involves a suspension or greater, sworn Police Officer's or Animal Control Officers may request an internal hearing under the Law Enforcement Officer's Procedural Guarantees. Each of these options are described in General Order 2.09 (Grievance Procedure), explained in the Five Day Letter (PD-4A), and referred to in the Notice of Disciplinary Action which are provided to the employee during the disciplinary action process.

Approval Procedure and Records Retention (CALEA 26.1.8)

Approval Procedure:

1. Once the **Memorandum of Charges** and the **Notice of Disciplinary Action** have been served on the employee and signed, a copy of all applicable paperwork shall be forwarded to the Precinct or Bureau Commander.
2. After the Precinct/Bureau Commander's review, a copy will be retained at the precinct/bureau, and a copy shall be forwarded to the Office of Internal Affairs (IA). IA will log the case and then forward it to the office of the appropriate Division Commander.
3. The Division Commander will review all **Notices of Disciplinary Action** which occur within that division for form and content and to ensure reasonable consistency within commands. The Division Commander will also assess the amount of time taken by the command to complete the corrective disciplinary process.
4. After the Division Commander's review, the completed **Notice of Disciplinary Action** will be returned to the Office of Internal Affairs.
5. When appropriate, IA will forward the Notice of Disciplinary Action to the Chief of Police for review. After the Chief of Police has reviewed the Notice of Disciplinary Action, he/she will return it to IA for finalization.
6. The Office of Internal Affairs will verify the final determination of disciplinary action and provide copies to the Department of Human Resources and to the employee's command for inclusion into their respective personnel files.
7. In the event the Precinct/Bureau, Division Commander or Chief of Police elects to overturn or to amend the imposition of disciplinary action, a written explanation will be provided to the supervisor who initiated the disciplinary action and to the employee who is the subject of that action.

Records Retention

Disciplinary action in response to an administrative investigation will be retained in the IA file in compliance with the VA Library retention schedule.

All disciplinary actions must be documented and sent to the Department of Human Resources via the appropriate chain of command. Disciplinary actions not submitted to the Department of Human Resources will not be considered official actions.

Captain's Board

When considering the appropriateness or consistency of discipline, the Captain's Board, comprised of all department captains, may be convened at the request of the Chief of Police, a Deputy Chief or a Captain. The Board may review any allegation of misconduct that may lead to dismissal, or any disciplinary situation of a complex nature where the Chief or a Deputy Chief believes that a review by the committee would be of value. A quorum of this committee shall consist of at least half of the department's captains and no meeting shall take place without a quorum. The Police Support Division Manager will sit on the Captain's Board when the issue involves Support Division personnel or when requested by the Chief or Deputy Chief. The Commanding Officer of Animal Control will sit on the Captain's Board when the issue involves Animal Control personnel. The Commanding Officer of the Office of Internal Affairs shall preside over the Board; in his absence, the Commanding Officer of Professional Development and Training will assume this position. The decision of the Captain's Board is advisory only.

Annual Disciplinary Review

Annually, the Office of Internal Affairs will conduct a review of all disciplinary action taken over the previous year to monitor consistency and to ensure that disciplinary action is imposed within department and city guidelines. This report will be provided to the Chief of Police and the Human Resources/Police Services staff. Recommendations for improvements, amendments to policies or issues relating to training will be added to the report.