

CHARLOTTESVILLE POLICE DEPARTMENT



Note: This directive is for internal use only and does not enlarge an officer’s liability in any way. It should not be construed as the creation of a higher standard of safety or care in an evidentiary sense with respect to third party claims. Violations of this directive, if proven, can only form the basis of a complaint by the Charlottesville Police Department and then only in a non-judicial administrative setting.

Type of Directive: GENERAL ORDER	Number: 0002-01
DISCIPLINARY PROCEDURES	Date: January 18, 2017
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Authorization: Chief R.M. Brackney <i>Rm Brackney</i>	Follow-up Date: Annually

I. POLICY

Discipline is a process of imposing formal sanctions, which will help train or develop an employee, preferably through positive and constructive methods, rather than punitive measures. Discipline in the Charlottesville Police Department involves positive corrective measures (e.g. training and/or counseling) and as a last resort, punitive action. All disciplinary actions taken under this General Order are subject to, and must be administered in accordance with the City of Charlottesville Human Resources Regulations and *Code of Virginia* (Law Enforcement Officers’ Procedural Guarantees.)

II. PURPOSE

The purpose of this directive is to establish the Department’s disciplinary process and to provide commanders with a structured decision-making model for determining appropriate discipline. This matrix represents the Department’s effort to standardize disciplinary recommendations. By adopting a prompt, consistent and fundamentally fair process, the Department maintains a high level of INTEGRITY, FAIRNESS and SERVICE to the citizens of the City of Charlottesville and members of the Department. This matrix is not intended to be the sole consideration for recommending action for any given violation. Regardless of the recommendations of supervisors, the Chief of Police is the final authority to approve and recommend all discipline in the Charlottesville Police Department.

III. OBJECTIVES

This process shall address the following objectives:

1. This disciplinary process assures a strict standard for officers. It holds supervisors to a high level of accountability by:

A. Needs and Confidence of the Community

- a) Establishing procedures in writing
- b) Establishing consistent levels of discipline throughout the Department
- c) Requiring documentation of employee performance to provide better historical data enabling fairness in relation to decision making
- d) Expediting the internal affairs process

B. Needs and Confidence of the Employee

1. Discipline is administered at a level appropriate to correct specific misconduct/behavior
2. This process seeks to encourage and reinforce positive behavior through counseling (advice), education (enhancement of skills or knowledge) and training (learning)
3. The employee is aware of Departmental procedures, and disciplinary levels. Employee's rights are not disregarded and the appeals process remains in place
4. Involvement of supervisors in discipline is increased and an employee's work history is available for consideration in decision making
5. Appropriate reckoning periods are established, thereby making it possible for an employee to improve his/her employment record.
6. Category "A" offenses which are considered as minor in nature are treated as non-disciplinary performance actions.

C. Efficient Management of the Department

1. When non-disciplinary approaches are inappropriate, imposition of discipline shall be consistent, fair and timely
 - Fairness is ensured by the use of a Disciplinary Matrix. Most offenses are ranked within a certain category and may only be increased or decreased by mitigating or aggravating circumstances
 - Timeliness is achieved through procedures that allow for expeditious responses and dispositions

2. The lines of authority and responsibility are clear for the concerned individual
3. The penalties and repercussions for misconduct are clearly delineated; this alone should influence actions and lessen the number of complaints. The result will be a more confident and enlightened employee.

IV. DESCRIPTIONS AND DEFINITIONS OF CATEGORIES

- A. Supervisor's Employee Incident Report (CPD-41) – A Department form used to document employee performance that can range from incidents of observed or reported exceptional police duty to incidents whereby an employee violates Department General Orders, City of Charlottesville regulations, and/or the Code of Virginia.
- B. Reckoning Period - Each penalty range contains a “reckoning period” which is defined as a period of time in which a previous infraction may be considered in determining a case category. The computation of the reckoning period shall begin with the date of occurrence of the incident.
- C. Minor Infractions - Many infractions by employees fall within category “A”. Most minor infractions will be handled at the Command level. Commanders will have wide latitude and discretion in the use of counseling, education, and training to deal with minor problems. No matter what action is taken, it must be documented. “Documentation” does not necessarily mean formal correspondence; however, any writing containing negative connotations must be discussed with the affected employee.
- D. Severe Letter of Reprimand – A letter to the affected officer on Department letterhead describing the serious nature of the offense and a firm warning of any repeated violation of the same or similar offense will result in termination.
- E. Involuntary Restitution – A corrective action that may be ordered in conjunction with disciplinary action in cases involving lost or damaged equipment. This option may also be used in lieu of but not in conjunction with disciplinary action in cases involving department vehicles damaged as a result of a motor vehicle accident. All Involuntary Restitution ordered will be in accordance with General Order 400.30.
- F. Multiple Infractions-Single Incident - The disciplinary process includes consideration of past incidents within the reckoning period. Also, occasionally there are single incidents that result in several incidents being sustained.
- G. Mitigating/Aggravating Circumstances - A commander must consider mitigating or aggravating circumstances that may relate to individual, multiple or all incidents listed. Generally speaking, mitigating and aggravating circumstances serve to justify making a discipline recommendation within the parameters established by the Matrix; however, there may be isolated cases where the mitigating and aggravating circumstances are of such magnitude that the commander feels compelled to support a recommendation for a higher or lower category than the behavior itself would warrant.

H. Movement to Higher or Lower Categories - If either aggravating or mitigating circumstances are present and such circumstances warrant a recommendation other than that listed in the Matrix, a Commanding Officer's recommendation may be no more than one category higher or one category lower.

If either aggravating or mitigating circumstances are present and such circumstances warrant a recommendation other than that listed in the Matrix, the Division Commander may select a punishment from any of the six (6) categories (A through F) subject to a review by the Chief of Police. After review, the Chief of Police may then select a punishment from any of the six (6) categories (A through F).

Grievance panels may aggravate or mitigate one category from the originally approved Police Chief's recommendation for punishment in Categories A through D. Category E and F violations are considered extremely serious breaches of Departmental standards and it is expected that a guilty finding would warrant the punishment originally approved by the Chief of Police.

It should be clear to the reader that ordinary or routine mitigating and/or aggravating circumstances, factually identifiable, not general, serve only to move the discipline recommendation within the established parameters of the Matrix.

Movements across categories, either up or down are to be the exception rather than the rule. Strong and specific justification is required to support a recommendation outside the prescribed disciplinary range

V. PROCEDURE

A. The purpose of discipline is to correct inappropriate behavior. Commanding Officers should not take any single fact out of context, but should consider all of the facts prior to assessing discipline

- The primary purpose of discipline is to correct, not to punish. Therefore, the least intrusive measure that serves to correct the inappropriate behavior should be used whenever possible.
- The Department must strive for consistency in its application of discipline.
- Decisions on minor policy infractions should be handled and documented on a Supervisor's Employee Incident Report (CPD-41) by the Command of the member involved.
- Recommendations for disciplinary actions on repeat or more serious infractions will be made in accordance with the philosophy of progressive discipline.
- Escalating factors may raise the original category to any level deemed necessary. These factors include:
 - 1) Type and extent of injury, if any;
 - 2) Amount of damage, if any;

- 3) Intent;
 - 4) Seriousness of infraction; and
 - 5) Past employee record
- B. Recommendations for disciplinary action may include consideration of mitigating and/or aggravating factors such as:
- 1) Employee motive
 - 2) Degree of culpability
 - 3) Truthfulness
 - 4) Disciplinary history
 - 5) Severity of infraction
 - 6) Acknowledgement of error/mistake by employee
 - 7) Other pertinent factors
- C. Punitive disciplinary action shall be undertaken in compliance with the Code of Virginia, §9.1-502 and in the interest of discipline. Disciplinary measures shall include:
- 1) oral reprimand
 - 2) written reprimand
 - 3) suspension without pay
 - 4) demotion
 - 5) reassignment within the Department
 - 6) termination
- D. Supervisory roles and responsibilities

The role of the supervisor is critical in the disciplinary process. Supervisors have the best opportunity to observe conduct and behavior and detect incidents where disciplinary actions are appropriate.

1. The primary responsibility for maintaining and reinforcing member conformance with standards of conduct of this Department shall be with the first and second line supervisors.
2. Supervisors shall familiarize themselves with the officers in their unit, and closely observe their general conduct and appearance on a daily basis.
3. Supervisors should remain alert for indications of behavioral problems or changes that may affect a member's normal job performance. Such information should be documented by the supervisor.

4. When a supervisor perceives that a member may be having or causing a problem, the supervisor should assess the situation, and determine the most appropriate action.

a) Supervisors may handle minor infractions without formal charges, prepare documentation to support formal charges and recommend to a superior officer that an employee be relieved of duty.

b) A second line supervisor, first line supervisor or a subordinate officer working in the position of first line supervisor, when the situation warrants, may relieve a member from duty with pay. When a supervisor relieves a member from duty he or she shall notify the Chief of Police through the appropriate Division Commander. Written documentation on the disciplinary incident shall be forwarded to the Division Commander before the expiration of the current tour of duty.

c) A Division Commander is authorized to review specifications and charges that have been filed against their subordinate officers and forward them, with comments attached, to the Chief of Police. Further, a Division Commander may suspend a member from duty with pay pending a hearing by the Chief of Police.

d) Final Department disciplinary authority and responsibility rests with the Chief of Police.

5. Any member of the Department who has been relieved from duty for disciplinary purposes shall report to the Office of the Chief of Police as directed.

E. Degree of violations and disciplinary options - Violations are classified into broad categories of infractions based on progressive degrees of severity. Category "A" articulates the lowest level violation. Repetition of similar violations or first offenses of more serious violations will lead to progressively higher penalty ranges of B, C, D, E, or F.

F. Discharge from the Department – Upon the decision to dismiss an employee, the Chief of Police shall send the dismissed employee by certified mail, receipt requested, a letter, which states the grounds for the dismissal and the employee's rights. The letter will precede by at least ten (10) calendar days the effective date of dismissal.

CATEGORY "A" VIOLATIONS

Description:

- Minor rules violation
- First (1st) and second (2nd) occurrence is not treated as a disciplinary action
- Same or similar sustained violations within twelve (12) consecutive months enhances the third (3rd) violation to Category B

- A combination of any three (3) sustained Category A violations within twelve (12) consecutive months enhances the third (3rd) violation to Category B

Proactive Corrective Action

- Training and Education
- Verbal counseling that is documented on the Supervisor's Employee Incident Report
- Mediation
- Psychological services
- Other non-disciplinary action
- Involuntary restitution

CATEGORY "B" VIOLATIONS

Description

- First occurrence of a Category B violation
- Enhanced violation from Category A
- Repeat same or similar sustained violations from Category A
- Same or similar sustained violations within twenty-four (24) consecutive months enhances the next violation to Category C
- Combination of any three (3) sustained Category B violations with twenty-four (24) consecutive months enhances the third (3rd) violation to Category C

Discipline Options

- Letter of reprimand
- One day loss of leave
- One day suspension without pay

Corrective Action

- Involuntary Restitution

CATEGORY "C" VIOLATIONS

Description

- First occurrence Category C violation
- Enhanced violation from Category B
- Repeated violation from Category B
- Same or similar sustained violations within thirty-six (36) consecutive months enhances the next violation to Category D
- Combination of any three (3) sustained Category C violations within thirty-six (36) consecutive months enhances the third (3rd) violation to Category D

Discipline Options

- Letter of reprimand
- Two (2) to Four (4) day loss of leave
- Two (2) to Four (4) day suspension without pay

Corrective Action

- Involuntary restitution

CATEGORY “D” VIOLATIONS

Description

- First occurrence of Category D violation
- Enhanced violation from Category C
- Repeated same or similar sustained violations from Category C
- Same or similar sustained violations within forty-eight (48) consecutive months enhances next violation to Category E
- Combination of any two (2) sustained Category D violations within thirty-six (36) months enhances the second (2nd) violation to Category E

Discipline Options

- Severe letter of reprimand

- Five (5) to Fifteen (15) day loss of leave
- Five (5) to Fifteen (15) day suspension without pay

Corrective Action

- Involuntary Restitution

CATEGORY “E” VIOLATIONS

Description

- First occurrence of a Category E violation
- Enhanced violation from Category D
- Repeated same or similar sustained violations from Category D

Discipline Options

- Severe letter of reprimand
- Over fifteen (15) days loss of leave
- Over fifteen (15) days suspension without pay
- Demotion
- Dismissal

CATEGORY “F” VIOLATIONS

Description

- First offense of a Category F violation

Discipline Option

- Dismissal

G. APPEALS PROCESS

Members of the Department may appeal a disciplinary decision through the City of Charlottesville Grievance Procedure (See City of Charlottesville Employee Handbook, Section 6, pages 1-8.)

- The Chief of Police shall coordinate the City of Charlottesville grievance procedure as outlined in the City’s grievance procedure. A copy of all written Department reports that are pertinent to the specific grievance shall be maintained and controlled in the employee’s personnel file located in the Office of the Chief of Police. The City of Charlottesville’s Department of Human Resources shall maintain and control external written documents generated in accordance with the City’s grievance procedures.
- In addition, sworn police officers may avail themselves to the use of either the City of Charlottesville Grievance Procedure or the Law Enforcement Officers’ Procedural Guarantees, Code of Virginia §9.1-500 through §9.1-507, but not both.
- The Law Enforcement Officer’s Procedural Guarantees. The appropriate Division Commander shall coordinate the grievance procedure in accordance with appropriate code sections. A copy of all documentation and/or transactions shall be maintained under strict control in the employee’s personnel file located in the Office of the Chief of Police.

The Law Enforcement Officer’s Procedural Guarantees addresses the following provisions:

1. Definitions (§ 9.1-500)
2. Conduct of Investigation (§ 9.1-501)
3. Notice of charges; response; election to proceed under grievance procedure of the local governing body (§ 9.1-502)
4. Personal assets of officers (§ 9.1-503)
5. Hearing; hearing panel recommendations (§ 9.1-504)
6. Immediate suspension (§ 9.1-505)
7. Informal counseling not prohibited (§ 9.1-506)
8. Chapter accords minimum rights (§ 9.1-507)

H. RETENTION AND MAINTENANCE OF RECORDS

1. Non-Disciplinary:

Category “A” (non-disciplinary) infractions shall be maintained in the employee’s command personnel jacket and destroyed after one (1) year of the date of infraction.

2. Disciplinary Action:

Category “B” through “F” violations will be maintained by the Chief of Police in the Internal Affairs Office in compliance with Series Number 10233 of the Library of Virginia’s Records Management and Imaging Services Division, *“records documenting an individual’s employment history, including but not limited to hiring, benefits, test results,*

professional certification, promotions, evaluations, disciplinary actions, and security check results” shall be retained for five (5) years after termination. Additionally, a duplicate copy of the above information shall be filed in the employee’s City of Charlottesville Human Resources Department personnel file.

3. Grievance Records and Reports:

In compliance with Series Number 10238 of the Library of Virginia’s Records Management and Imaging Services Division, “*Files or documents that contain the proceedings of an employee grievance, including the initial complaint, actions, investigation, summary and dispositions” shall be retained for three (3) years after closure.*