



Police Department

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DEPARTMENT GENERAL ORDER 20-16

OFFICE of the CHIEF OF POLICE  
REPLACES: General Order 03-31

DATE: September 24, 2020

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**ADMINISTRATION OF DISCIPLINE**

I. PURPOSE

The establishment of a disciplinary system, the enforcement of which is fair and equitable to all Police Department employees; is essential to maintaining a basic code of conduct governing rules of personal department that are calculated to promote the public trust.

II. DEFINITIONS

**Appeal** - To request or make application to a superior authority, seeking redress.

**Discipline** – An action designated to modify or correct the actions or conduct of an employee for any violation of the Personnel Policies and Procedures or department policies and procedures; failure to exhibit expected work behavior; poor performance; or any other conduct deemed inappropriate or against the interests of the City.

**Reprimand** - A severe or formal reproof, officially administered from a position of authority.

**Malfeasance of Duty** - An act or instance of wrongdoing that is legally unjustified or contrary to law.

**Misfeasance of Duty** - The performance of a lawful action in an illegal or improper manner.

**Nonfeasance of Duty** - The omission to do what should be done.

III. GENERAL

The authority to discipline subordinates is inherent to each supervisory and managerial position within the organizational structure. The policy and procedures developed to administer the disciplinary system detail a progressive system of differing levels of severity which includes both punitive and non-punitive actions. It should be noted however, that department employees shall not be subject to disciplinary action unless their actions constitute one of the following:

- A. A violation of local, state, or federal law.

- B. A violation of the standards of conduct.
- C. A violation of written or verbal department policies, procedures, rules, or orders.
- D. Malfeasance of duty.
- E. Misfeasance of duty.
- F. Nonfeasance of duty.

Prior to the initiation of any disciplinary action, the supervisor and/or Commander responsible for the subordinate should examine the following areas to render a thoroughly balanced judgment:

- A. Mitigating and extenuating circumstances.
- B. Previous training history.
- C. Level of experience.
- D. Past performance ratings.
- E. Prior complaints/disciplinary actions.
- F. General attitude and conduct of the employee.
- G. Seriousness of the offense/misconduct.

#### IV. DISCIPLINARY SYSTEM

To be effective, discipline cannot be arbitrary in nature and its administration must be supported by appropriate documentation and facts. The form and severity of discipline shall generally be incremental in nature, unless the violation merits a serious and immediate disciplinary response. The types of disciplinary options shall be classified into two general categories: Non-Punitive Actions and Punitive Actions.

##### A. Non-Punitive Actions

###### 1). Remedial Training

Mandatory training assigned to an employee when a failure in personal conduct and/or performance is deemed to be the result of inadequate instruction or knowledge.

Such training may be conducted in-house by another member of the department or the employee may be assigned to attend one or more classes at an external training provider. Should the latter be selected, class assignment will be in accordance with the training provider's schedule.

Remedial training shall be documented in a Memorandum from an instructor or supervisor and forwarded up the chain of command for review and record retention.

## 2). Counseling

Mandatory interview sessions with a supervisor or outside professional (psychologist, sociologist, etc.) intended to address a situation or trend in performance or conduct which is unacceptable and could result in additional disciplinary action if continued or repeated.

In the event an outside professional is chosen to counsel/treat an employee for a specific problem (alcohol, substance abuse, gambling, etc.), the city shall generally assume the costs of the counseling program and may permit such sessions to be held during regularly scheduled duty hours. The employee shall then be required to schedule visits/sessions as necessary and attend same in a regular manner. At the beginning of the counseling program, the employee will be expected to sign a release permitting the periodic disclosure of information to the department to verify attendance in the program and if the employee is fit for duty.

Counseling sessions shall be documented in a Disciplinary Action Report in addition to any investigative documentation may have preceded such discipline. The original of the Disciplinary Action Report will be placed in the employee's personnel file while a copy is placed with the internal affairs case file, should one exist. The employee's supervisor will also retain a copy of the file to be used in preparing the employee's annual performance evaluation.

## B. Punitive Actions

### 1). Verbal Warning

A formal disciplinary conference between an employee and an immediate supervisor or commander. The conference should be held in private surroundings where the supervisor will explain the infraction or misconduct to the employee and indicate what steps may be taken to correct the problem. This may include the need for additional training which the supervisor will assign as circumstances permit. The supervisor will also inform the employee of the potential for additional disciplinary action should there be a future re-occurrence of the misconduct under discussion. At the end of the conference, the supervisor will document the conversation in a Disciplinary Action Report. The Report shall be placed in the employee's personnel file. The supervisor will also retain a copy of the report for reference purposes in preparing the employee's annual performance evaluation.

The affected employee will be required to sign the Disciplinary Action Report and be given the opportunity to write a rebuttal. In the event an employee refuses to sign the document or note their objections, the supervisor shall write "Refused to Sign" on the employee signature line.

## 2). Written Reprimand

A formal written response by department management to an employee's commission of a more serious infraction or to the continued wanton and/or negligent violation of department policy, procedure, or regulations. The initiating supervisor or complainant will consult with the appropriate Platoon or Bureau Commander and provide them with the documentation and facts pertinent to the incident under review.

Should a letter of reprimand be issued, the Bureau Commander responsible for its compilation should also utilize a City of Clayton Discipline Action Report to summarize the misconduct and behavioral areas noted for improvement. The affected employee will be required to sign the form and be given the opportunity to write a rebuttal. In the event an employee refuses to sign the document or note the objections, the Bureau Commander shall write "Refused to Sign" on the employee signature line. The written reprimand shall then be placed in the employee's personnel file where it will remain for a minimum of one year or for a period of time as determined by the Bureau Commander or Chief of Police.

## 3). Employee Improvement Plan

A trial period of a specified length of time during which the employee is required to fulfill a set of conditions or improve work performance or on-the-job behavior. Failure to meet a special probationary requirement may result in additional disciplinary action, up to and including termination. An employee may be placed on special probation in conjunction with another form of disciplinary action. An employee shall not be eligible for any salary increase (step or performance increase) during an Improvement Plan period. The notice of the employee's Improvement Plan will state the length of time for the Plan and when the employee will be eligible for their next performance increase.

## 4). Suspension

Subordinate employees may be relieved of duty by any department

supervisor or commander in those situations where the circumstances require the employee's immediate removal from duty. Such action will constitute a temporary measure only, and shall generally not exceed a period of time beyond that necessary for notification to be made to the appropriate Bureau Commander and Chief of Police. Once notification has taken place, the Chief of Police may order a formal suspension be initiated (either with or without pay) or to have the employee return to duty pending the results of an internal affairs investigation.

Prior to the imposition of a suspension, the Chief of Police shall generally take the following steps:

- a. Schedule a meeting with the employee and apprise same of the reasons for the proposed disciplinary action.
- b. Afford the employee an opportunity to explain their actions.
- c. Consider all relevant information concerning the incident.
- d. Consult with the City Manager.

The length of a suspension shall rest solely with the considered judgment of the Chief of Police, though same shall usually not exceed a maximum of ninety (90) calendar days. It should be noted however, that in order to accommodate potentially lengthy investigative processes, the overall length of suspensions may be extended in thirty (30) day increments as necessary.

The underlying specifications that lead to each suspension will be documented along with the procedural process that was followed in both a formal internal affairs investigative report and City of Clayton Disciplinary Action Report. The original report shall be entered in a secure file maintained by the Office of the Chief of Police, while a copy of the written conclusion of fact will be provided to both the accused employee and the originating complainant. A copy of the Citizen Complaint Summary (if applicable), the City of Clayton Disciplinary Action Report and associated suspension order will be placed in the employee's personnel file as part of their permanent record.

Concurrent with the imposition of a suspension, employee(s) affected by the order shall relinquish their department identification card, badge, and service weapon to the Office of the Chief of Police. While under suspension, an employee may not serve in an official

capacity, represent themselves as serving under the color of law, nor wear the uniform or insignia of rank.

Upon the conclusion or termination of a suspension where an employee is granted permission to return to active duty, the items relinquished to the department shall be returned to the employee.

5). Demotion

A form of discipline wherein, at the discretion of the Chief of Police and the City Manager, an employee may incur a reduction of rank or grade or both. Demotion may serve as a disciplinary measure in and of itself, or occur in conjunction with another form of disciplinary action such as a written reprimand or suspension.

Prior to the imposition of a demotion, the Chief of Police shall generally take the following steps:

- a. Schedule a meeting with the employee and apprise same of the reasons for the proposed disciplinary action.
- b. Afford the employee an opportunity to explain their actions.
- c. Consider all relevant information concerning the incident.
- d. Consult with the City Manager.

The employee will be formally advised in writing of a demotion and the underlying justification that led to such action. A warning may be included that should future disciplinary action be required, further demotion or termination may result.

A reduction in rank or grade as a result of disciplinary action shall be permanent until the requirements for promotion and/or advancement are met by the affected employee.

The underlying specifications that lead to a demotion will be documented along with the procedural process that was followed in a formal internal affairs investigative report. The original report shall be entered in a secure file maintained by the Office of the Chief of Police, while a copy of the written conclusion of fact will be provided to both the affected employee and initial complainant. A copy of the Citizen Complaint Summary (if applicable) and associated demotion order will be placed in the employee's personnel file as part

of their permanent record.

#### 6). Restitution

A form of discipline where employees who have been determined, through the course of an investigation, to have negligently or with malice aforethought damaged or lost department property, may be ordered to make monetary restitution for the replacement or repair of the property in question.

Restitution may serve as a disciplinary measure in and of itself, or occur in conjunction with one or more other types of discipline.

The underlying specifications that lead to an order of restitution will be documented along with the procedural process that was followed. The original report, whether it be a formal internal affairs report or a Citizen Complaint Summary form, shall be entered in a secure file maintained by the Office of the Chief of Police. A copy of the written conclusion of fact will be provided to both the employee(s) involved and the originating complainant. In addition, a copy of the Citizen Complaint Summary form (if applicable) and associated restitution order will be placed in the employee's personnel file as part of their permanent record.

#### 7). Ban From Secondary Employment

A form of discipline where an employee may be barred from engaging in secondary or off-duty employment for a specified period of time.

The length of such a ban shall rest solely with the considered judgment of the Chief of Police, though same shall usually not exceed a maximum of ninety (90) calendar days. It should be noted however, that such a ban may serve as a disciplinary measure in and of itself, or occur in conjunction with one or more other types of discipline.

The underlying specifications that lead to a ban on secondary employment will be documented along with the procedural process that was followed. The original report, whether it be a formal internal affairs report or a Citizen Complaint Summary form, shall be entered in a secure file maintained by the Office of the Chief of Police. A copy of the written conclusion of fact will be provided to both the affected employee(s) and the original complainant. In addition, a copy of the Citizen Complaint Summary (if applicable) and associated disciplinary action shall be placed in the employee's personnel file as

part of their permanent record.

#### 8). Termination

The most serious form of discipline, where, upon the considered judgment of the Chief of Police and the City Manager, an employee is terminated from his/her position with the Police Department.

Termination of service shall generally be administered for:

- 1) a criminal conviction of a felony offense or serious misdemeanor,
- 2) a substantial violation of department policy, procedures, or regulations,
- 3) an accumulation of documented policy or procedural violations, and/or
- 4) the inability of an employee to adjust his/her performance and behavior to meet department standards.

The underlying specifications that lead to a termination of employment shall be documented along with the procedural process that was followed in reaching such a decision. The original investigative report shall be entered into a secure file maintained by the Office of the Chief of Police, while a copy of the written conclusion of fact shall be provided to both the accused employee and the original complainant. The terminated employee will also be provided with a cover letter containing a written statement citing the reason(s) for their dismissal, the effective date of the dismissal, and that information concerning potential pension and/or other fringe benefits may be obtained from the main personnel office at City Hall.

A copy of the Citizen Complaint Summary (if applicable) and associated termination documents will be placed in the employee's personnel file as part of the permanent record.

Once notice of termination has been issued, the employee will be required to surrender all department property at the earliest possible time. The employee may be financially liable for any missing property.

Disciplinary measures such as suspension, demotion, and termination require a Personnel Action form be filed with the City's Human Resources Office in a timely manner.



## V. DISCIPLINARY AUTHORITY

Disciplinary authority shall be progressive with the power to administer disciplinary measures increasing in conjunction with rank.

### A. First Line Supervisors

First line supervisors have the best opportunity to observe their subordinate's conduct and appearance, and to detect those instances where disciplinary action and/or investigation may be warranted. As such, first line supervisors have the authority to relieve employees from duty, administer certain types of non-punitive and punitive discipline (counseling, remedial training, and verbal reprimands), and to recommend more serious disciplinary measures.

Supervisors shall be responsible to document those disciplinary measures they impose on their subordinates, and have the authority to request and receive written memorandums and other documentation concerning any phase of an employee's performance. First line supervisors will also ensure that both the initiating complainant and departmental command staff are notified of disciplinary action taken against an employee.

In line with their overall responsibility regarding disciplinary matters, supervisors may also attempt to provide guidance in solving those personal matters that negatively impact a subordinate's performance.

### B. Command Staff

1). Platoon Commanders share much the same degree of responsibility and authority for discipline as first line supervisors. They possess the authority to relieve employees from duty, administer certain types of non-punitive and punitive discipline (counseling, remedial training, and verbal reprimands), and to recommend more serious disciplinary measures to their Bureau Commanders.

Platoon Commanders shall be responsible to document those disciplinary measures they impose upon their subordinates and have the authority to request and receive written memorandums and other documentation concerning any phase of an employee's performance. Mid-level commanders will also ensure that both the initiating complainant and command staff are apprised of any disciplinary action taken against a subordinate member.

As circumstances warrant, Platoon Commanders may also attempt to provide guidance in solving those personal matters which negatively impact a subordinate's performance.

## 2). Bureau Commanders

The Bureau Commanders of Patrol, Criminal Investigations, and Strategic Planning and Support possess the authority to administer a wider scope of disciplinary measures than first line supervisors and subordinate commanders. This authority encompasses both non-punitive and punitive disciplinary actions and includes relieving employees from duty, imposing remedial training, scheduling counseling sessions, and issuing both verbal and written reprimands. Bureau Commanders will also provide recommendations for more serious disciplinary measures to the Chief of Police and serve as an advisory council to same in such matters.

Bureau Commanders shall be responsible to document those disciplinary measures they impose on their subordinates and possess full authority to request and receive written memorandums and other documentation concerning any phase of an employee's performance. Bureau Commanders will also ensure that both the initiating complainant and the Chief of Police are apprised of any disciplinary action taken against a subordinate.

As circumstances warrant, the Captain/Lieutenant heading the departmental Bureaus may attempt to provide guidance in solving those personal problems which negatively impact a subordinate's performance.

## C. Chief of Police

The Chief of Police shall possess the greatest degree of authority and latitude in the administration of internal discipline. In addition to those types of disciplinary measures that may be imposed by managerial and supervisory personnel, the Chief of Police possesses full authority to suspend, order restitution, ban from secondary employment, demote to a lower grade or rank, and/or terminate a subordinate's employment. The Chief of Police may also alter, suspend, or expand disciplinary actions ordered by command and supervisory staff members. It should be noted however, that the Chief of Police will be required to consult with the City Manager prior to the imposition of serious (suspension, demotion, and termination) disciplinary actions.

The Chief of Police shall be responsible to document those disciplinary measures he may impose upon a subordinate and will be required to maintain

a confidential file containing internal affairs records. To assist in the investigative and disciplinary process, the Chief of Police possesses full and complete authority to request the drafting of written memorandums and other documentation concerning any phase of an employee's performance, and may also order such examinations as are outlined in General Order for Internal Affairs.

The initiating complainant will be apprised of any disciplinary action taken against an employee, and the forms/reports generated during a disciplinary investigation shall be distributed and filed in an appropriate manner.

As circumstances warrant, the Chief of Police may attempt to provide guidance in solving those personal problems which negatively impact an employee's performance.

## VI. APPEAL PROCESS

### A. Appeals to the Chief of Police

Department employees may appeal the imposition of disciplinary action such as mandatory counseling, written reprimand, ban from secondary employment, and restitution, by filing a written petition, within seven (7) calendar days of the date the disciplinary ruling was issued, to the Chief of Police. Such appeal shall be forwarded through the proper chain of command. The Chief will review the appeal and make a determination. The Chief of Police shall then notify the employee, in writing, of the decision concerning the appeal and a copy of the letter shall be placed in the internal affairs file and the employee's personnel record. The Chief's decision shall be final.

### B. Appeals to the City Manager

Department employees may file an appeal to the City Manager for disciplinary actions resulting in suspension, disciplinary demotion or termination of employment. This appeal process is documented in the City of Clayton Personnel Policies & Procedures. The decision of the City Manager is final.

In those instances when an employee receives a Counseling or a Verbal Warning, where such action does not result in a permanent document entry into the employee's personnel file, no appeal is permitted.

Employees removed from appointive rank or assignments do not have the right to appeal their removal if they are not reduced below their permanent rank or position.

Employees in-training shall be afforded the same right to appeal disciplinary actions as permanent employees with the exception of termination proceedings. In such instances, employees in-training shall have no right of appeal.

## VII. TERMINATION STATEMENT

In those instances where a decision is made to terminate an employee for disciplinary reasons, the Chief of Police shall submit a formal letter to the affected employee citing the underlying reasons for the dismissal, the effective date of the termination, and that information concerning the status of pension and/or other fringe benefits may be obtained from the Human Resources Office

The termination statement shall be hand-delivered to the employee at a date and time agreeable to the Chief of Police.

A copy of the termination statement will be placed in the appropriate internal affairs file, with a second copy placed in the employee's personnel file as part of their permanent record.

## VIII. RECORDS MANAGEMENT

### A. Primary Personnel File

All City of Clayton employees shall have a primary personnel file located in the Human Resources Office. This shall be considered the employee's official file.

In all cases of disciplinary action, except for verbal warnings, a written notice of the action signed by the Department Head or supervisor stating the reasons for such action shall be given to the employee. The employee shall sign an acknowledgement of receipt and be given an opportunity to provide written comments. The employee's signature does not necessarily indicate agreement and is obtained as an acknowledgment that they were notified of the action taken. A copy of the written notice and original acknowledgement shall be provided to the Human Resources Office for inclusion in the employee's primary personnel file.

At the Department's discretion, documentation of verbal warnings may be forwarded to the Human Resources Office. If the inappropriate behavior is repeated and further disciplinary action is warranted, documentation of verbal warnings must be submitted to the Human Resources Office.

### B. Police Department Personnel File

The Police Department maintains employee files, to include documentation on disciplinary actions, in the Criminal Investigations Bureau Commander's Office. Disciplinary Action Reports shall be included in these Police Department personnel file. The following Disciplinary Action Reports shall be removed from the Police Department's personnel file after the specified time period:

- a. Counseling – one (1) full year. This can be extended at the discretion of a Bureau Commander or Chief of Police if the documented behavior persists and results in additional disciplinary actions.

- b. Verbal Warning - one (1) full year. This can be extended at the discretion of a Bureau Commander or Chief of Police if the documented behavior persists and results in additional disciplinary actions.
- c. Written Reprimand - a minimum of one (1) year, or for such a period of time as the appropriate Bureau Commander and/or Chief of Police deem necessary.

BY ORDER OF:



MARK J. SMITH  
Chief of Police

MJS:sak

CALEA Reference 26.1.4/26.1.5/26.1.6

26.1.7/26.1.8