



# SUMMARY PUNISHMENT

**INDEX CODE: 303.3**  
**EFFECTIVE DATE: 07-01-04**

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## **I. SUMMARY PUNISHMENT CRITERIA**

Summary punishment is a disciplinary tool intended for use by supervisory and command personnel. However, before summary punishment may be offered, the commander of the Internal Affairs Section must be apprised of the circumstances and authorize disposition of the matter under summary punishment.

For the purposes of administering summary punishment, the term "commanding officer" when used in this directive means the Captain in command of the affected employee's organizational component. If the component does not ultimately report to a Captain, then the term "commanding officer" means the Lieutenant in command of the component.

The above procedure does not preclude a commander from counseling a subordinate. Use of the counseling process can correct undesirable behavior while maintaining maximum harmony between a supervisor and subordinate.

Summary punishment may be imposed after all the following conditions are met:

- A. A complaint of employee misconduct is reported on a Complaint Against Personnel form;
- B. The complaint was an on-view violation, or has been investigated and classified as "sustained";
- C. The commander of the Internal Affairs Section has been contacted and has determined that the misconduct can be resolved by the administration of summary punishment;
- D. The affected employee's commanding officer approves the level or type of summary punishment to be offered;
- E. The employee waives any applicable LEOBR rights and accepts the summary punishment in writing, within five (5) working days of the offer.

In all cases, summary punishment will be imposed within 30 days from the date of review by the commanding officer, and in the case of suspension, concluded in consecutive working days after imposition.

## **II. STATUTORY PROVISIONS**

*Summary punishment may be imposed for minor violations of department rules and regulations when: (i) "The facts that constitute the minor violation are not in dispute; (ii) the law enforcement officer waives the hearing provided by this subtitle; and (iii) the law enforcement officer accepts the punishment imposed by the highest ranking law enforcement officer, or individual acting in that capacity, of the unit to which the officer is attached." Summary punishment may not exceed suspension of three days without pay or a fine of \$150. (Md. Code, Public Safety Article, Title 3, Section 3-111)*

## **III. SUMMARY PUNISHMENT PROCEDURES**

Disciplinary actions involving summary punishment will be processed as follows:

**A. Notification of Internal Affairs**

Supervisors who wish to impose summary punishment must first brief Internal Affairs on the circumstances of the case. The Internal Affairs commander or designee will determine if the violation or complaint may be resolved with summary punishment.

If summary punishment is authorized, the Internal Affairs Section will provide a case number, the necessary forms and instructions, and will inform the supervisor of the employee's disciplinary history, and the range of summary punishment options that are appropriate for the violation.

**B. Supervisor's Responsibilities**

1. In cases of on-view violations, submit a Complaint Against Personnel report describing the circumstances and the recommended summary punishment to the component's commanding officer.
2. If the violation is not on-view, conduct an investigation. Document the findings in a report to the component's commanding officer. If the complaint is sustained, submit a recommendation of summary punishment.

**C. Investigative File**

The supervisor who decides to impose summary punishment is responsible for ensuring that the investigative file is complete. Investigative files should contain:

**1. Charging Document**

Either a Complaint Against Personnel form or Accident Review Board report. If the violation is considered "on-view" (the supervisor witnessed the violation or has direct knowledge of it), a supplement report containing the details should be submitted.

**2. Investigative Reports**

If the alleged misconduct is not "on-view", an investigation must be conducted. The supervisor's investigative report should include:

- a. Notice to officer to appear for a statement
- b. Statements of accused officer
- c. Statements of victim or complainant
- d. Statements of all witnesses
- e. A summary of all items of evidence

In the case of departmental accidents, the file must contain: driver statements, witness statements, accident and related reports, Supervisor's Accident Summary form, A.A. County Damage to Vehicle report, photographs and Accident Review Board report.

**3. Conclusion of Fact**

The investigative report will conclude that the alleged misconduct was at least one of the following:

- a. Exonerated  
The alleged act occurred but was justified, legal and proper. The action of the agency or the employee was consistent with agency policy and the complainant suffered no harm.
- b. Policy Failure  
Although the action of the agency or the employee was consistent with agency policy, the complainant suffered harm. Internal Affairs will refer the deficient policy to the Staff Inspections Section for review and revision.
- c. Sustained  
The accused employee committed all or part of the alleged acts of improper conduct.
- d. Not Sustained  
The investigation produced insufficient information to prove or to disprove the allegation.
- e. Unfounded  
The alleged act(s) did not occur.
- f. Unreported Misconduct  
The discovery of sustained acts of misconduct that were not alleged in the original complaint.

**D. Commander's Review**

Upon concurrence with the disposition/recommendation by the commanding officer, the entire file will be returned to the originating supervisor with an authorization to impose summary punishment. If the commanding officer does not concur with the disposition/recommendation, the entire file will be returned to the originating supervisor stating the action to be imposed or requesting further justification or investigation.

**E. Notification to Officer**

Once summary punishment has been approved, the supervisor will notify the accused officer of the specific charge(s) and proposed summary punishment offered, using form PD 647. The accused officer may consider the offer for five working days to decide whether to accept or refuse the offered summary punishment, indicating the decision on form PD 645.

**F. File Distribution**

1. If the accused officer accepts the punishment and waives a trial board, the originating supervisor will impose the summary punishment, place the "Offer of Summary Punishment" (PD 647) and the signed "Acceptance of Summary Punishment & Waiver of Trial Board" (PD 645) in the investigative file, and the investigator will hand deliver the file to the secretary of the Internal Affairs Section and receive a receipt that the file has been returned.

2. If the accused officer requests a trial board, the originating supervisor will hand deliver the file to the Internal Affairs Section and receive a receipt from the secretary of the Internal Affairs Section that the file *has* been returned. Internal Affairs will take action to either initiate a trial board or file the investigative report.

**G. Notice of Disciplinary Action**

Official notice of the disciplinary action will be made to the officer in an inter-office correspondence, distributed as follows:

1. The original, signed by the accused officer, is kept in the investigative file with copies to the Police Personnel Section Manager and the chain of command.
2. One copy is given to the accused officer.

**H. Notification to Complainant**

The investigating supervisor will write a letter to the complainant, stating the results of the investigation (sustained, not sustained, unfounded, exonerated, or policy failure) and the fact that disciplinary action has or has not been imposed. By law, the exact level or nature of disciplinary action will not be specified.

**IV. PROPONENT UNIT:** Internal Affairs/Inspection Section.

**V. CANCELLATION:** This directive cancels Index Code 303.3, dated 10-26-01.