

5.4 Disciplinary Actions

5.4.1 Administration of the Office Disciplinary System

All employees of the Office, both sworn and civilian, are subject to discipline under the provisions of this directive. Disciplinary procedures and actions will be applied in accordance with the regulations and practices of the Anne Arundel County Office of Personnel, and where applicable, negotiated union contract and/or the *Law Enforcement Officers' Bill of Rights*, Annotated Code of Maryland/Public Safety/Title 3.Law Enforcement, Subtitle 1. Law Enforcement Officers' Bill of Rights. Disciplinary actions and related matters are to be handled at the lowest level in the chain-of-command. The Chief Deputy will monitor, and direct, when necessary, the administration of all disciplinary activity (also see *Chapter 5.3, Investigation of Employee Misconduct*, in this General Orders Manual).

The following changes have been made to the Law Enforcement Officers Bill of Rights as a result of HB 1016 (The Police Reform Bill):

Section 3-103 - Whistleblower Protections: Prohibits an agency from retaliating against an officer for:

- A. Exercising their LEOBR Rights;
- B. Exercising their constitutional rights;
- C. Making a disclosure of gross mismanagement, waste of resources, and substantial danger to public safety, violation of law committed by another officer.
- D.

Section 3-104- Excessive Force Complaints:

- A. May be made by the aggrieved individual, immediate family member, person at the alleged incident or someone who **has a video recording of the incident, that, to the individual's knowledge is unaltered**, or the parent of a minor child;
- B. Complaint must be filed within **366 days** of the incident;
- C. **Complaint alleging excessive force must be signed and sworn under penalty of perjury, eliminating the "before an official authorized to administer oaths;"**

- D. Interrogation of an officer shall be suspended for a period not to exceed **5 business days**, this is reduced from 10 days;
- E. Within the 5 business day period the Chief/Sheriff may extend the time.
- F.

Hearings - The LEOBR hearing shall be open to the public, unless the Chief/Sheriff, finds the hearing must be closed for good cause, including to protect a confidential informant, an undercover officer, or a child witness.

5.4.2 Disciplinary Continuum

Supervisory and administrative staff will adhere to a progressive continuum of disciplinary action when instances of misconduct are identified. The continuum may range from verbal reprimands to termination of employment. Disciplinary activities may include, but are not limited to:

- Verbal Reprimand
- Written Reprimand
- Loss of Leave, Fine, Reassignment, Suspension, Reduction in Pay [to a lower step], or Demotion [to a lower classification]
- Termination or Negotiated Resignation

Regardless of the number of occurrences of misconduct, or lack thereof, and based on the severity of an incident, identified misconduct may warrant the application of a more severe step on the progressive discipline continuum. This concept applies even for an initial violation (e.g., termination may be appropriate for a one-time grossly negligent act).

5.4.3 Sworn Personnel Only - Application of Disciplinary Actions

Misconduct for all employees will be addressed as specified in negotiated labor agreement, according to the practices and policies of the Anne Arundel County Office of Personnel and the *Law Enforcement Officers' Bill of Rights*. Absent other guidance, matters may be resolved by employing:

- Disciplinary Hearing Board
- Negotiated Plea
- Summary Punishment

A *hearing board* is a panel assembled by the Sheriff to hear both sides of an incident. A panel will determine the validity of alleged misconduct, and when an allegation is sustained, may recommend disciplinary action. Hearing board

decisions may be appealed to the Anne Arundel County Circuit Court. Any employee who is a defendant in an administrative or judicial proceeding is not to have any weapons on his/her person during such proceedings.

When a minor violation of Office rules and regulations has been alleged, an employee may opt out of a formal disciplinary hearing and elect to accept *summary punishment*. Summary punishment may be dispensed by an employee's immediate supervisor when the employee acknowledges that they were at fault and the proposed punishment does not exceed a fine of \$150 or suspension of more than three (3) days. Proposed summary punishment must meet with approval of the Chief Deputy prior to an official offer. A *negotiated plea* is similar to an offer of summary punishment, except that the disciplinary measure may exceed the summary punishment threshold.

5.4.4 Civilian Personnel Only - Application of Disciplinary Actions

Misconduct for non-sworn employees will be addressed in a manner consistent with negotiated labor agreement and the practices and policies of the Anne Arundel County Office of Personnel. Absent other guidance, and excepting situations involving a termination of employment, all matters may be applied/enforced at the supervisory level. Proposed punishment must meet with the approval of the Chief Deputy. A termination of employment recommendation requires a formal *pre-discharge hearing* through the Anne Arundel County Office of Personnel.

An employee who contests a supervisor's disciplinary recommendation, or a flaw in the process which led to the action, may grieve such to the appropriate bureau commander. If the issue is not resolved satisfactorily, the grievance may be brought to the attention of the Sheriff, and subsequently appealed to the Anne Arundel County Office of Personnel or the Anne Arundel County Personnel Board. Further disagreements may be referred to the Anne Arundel County Circuit Court for relief. Ordinarily, punitive actions are not to commence until a grieved determination has been resolved, particularly in the case of a forfeiture of leave, fine, reassignment, suspension, reduction in pay, or demotion.

5.4.5 Grievance of Disciplinary Action

With the exception of disciplinary action that resulted from the sustained verdict of a hearing board, the Anne Arundel County Personnel Officer, or the Anne Arundel County Personnel Board, disciplinary action may be grieved by any employee utilizing the mechanisms available by negotiated labor agreement and the regulations and practices of the Anne Arundel County Office of Personnel.

A grievance will nominally state: (1) the incident, situation, act, or activity being grieved; (2) the rule, regulation, ordinance, or statute that was alleged to have been violated; and, (3) the relief or corrective action sought by the employee.

5.4.6 Counseling and Training

Supervisors may counsel employees or recommend training at any time to correct some form of behavior or to enlighten the employee as to the implications of a particular situation. Counseling and training should encourage employee productivity and effectiveness through positive and constructive methods. It is important to note that counseling and training in and of themselves are not punitive or disciplinary actions. Counseling or training may be used to address a potential performance deficiency or similar situation before behavior becomes notably unacceptable. A counseling session or training endeavor may be solely employed, or complement activity at any level in the disciplinary hierarchy.

5.4.7 Disciplinary Records

Documentation of all actions, with the exception of counseling sessions and verbal reprimands, are to be kept in the employee's [County and departmental] personnel file(s) for a term of five years after the employee has left County employment. This includes not only administrative convictions, but also records of summary punishment and "preventable" motor vehicle accidents. Records of counseling and verbal reprimands are to be stored at the unit level (also see *Chapter 4.7, Employee Performance, Planning, and Appraisal* in this General Orders Manual).

5.4.8 Expungement of Records

Any employee may request that certain investigatory records relating to him/her be expunged after a certain period of time. Expunge-able documents are those categorized as internal affairs files or kept in any other capacity, such as training or personnel files, containing or directly relating to *non-sustained, unfounded, exonerated*, or similar non-supported allegations. If these documents have been in existence for over three (3) years they may be administratively purged. These inculcable materials include investigatory files, hearing board chronicles, documentation of motor vehicle accidents, and similar records. An employee request for records expungement should be made in writing via chain-of-command to the Chief Deputy (also see *Chapter 5.3, Investigation of Misconduct*, in this General Orders Manual).