

# Disciplinary Policy

## 347.1 DISCIPLINE DEFINED

Discipline, as discussed in this chapter, is any formal corrective action taken by the Department toward any Member who violates any Departmental policy, rule, regulation, or statute. Pre-disciplinary measures including counseling memos, deficiency notices, and performance expectation memos may be used as preliminary corrective actions in appropriate cases.

## 347.2 TYPES OF DISCIPLINARY ACTION

1. Subject to the provisions of the Personnel and Salary Resolution for the County of Orange, and the Member's appropriate MOU, the following are approved disciplinary actions within the Department:
  - (a) Written Reprimand: A reprimand reduced to writing, signed by the Member, and made a part of the Member's personnel file.
  - (b) Suspension: A relief from duty without pay.
  - (c) Demotion: A reduction to a position of lower class or rank.
  - (d) Dismissal: A termination of employment.
2. The type of disciplinary action chosen shall be appropriate to the seriousness of the violation.

## 347.3 AUTHORITY TO DISCIPLINE

1. All Departmental discipline that exceeds a 24-hour suspension without pay must be approved by the appropriate Assistant Sheriff. Commanders are authorized to approve Department discipline consisting of a written reprimand up to a 24-hour suspension without pay. Any supervisor, when appropriate, may administer an oral reprimand to subordinate personnel in their command. Any other type of disciplinary action may be recommended by a supervisor to their superior.
2. Commanders are authorized to issue written reprimands for performance deficiencies within the following guidelines:
  - (a) Written reprimands must be properly documented.
  - (b) Written reprimands may not be issued in any case where the Member must be interviewed, or required to provide written documentation, to determine if the alleged act or inaction occurred. Such situations are referred through channels to the Internal Affairs Bureau.
  - (c) The Commander shall first submit copies of all supportive documents, appropriate memorandum from supervisors, a brief summary of cause for the action, and a draft written reprimand to their Assistant Sheriff for review and approval.

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- (d) The package will be forwarded to the Internal Affairs Bureau and all materials shall be reviewed for compliance with rules and regulations and the applicable Memorandum of Understanding. The Internal Affairs Bureau shall then create a Personnel Investigation file and issue an Internal Affairs tracking number.
- (e) The Personnel Investigation file shall be returned to the Division and a final written reprimand shall be prepared by the Division and signed by the Commander and acknowledged by the affected Member (signature, or "refused to sign", with date).
- (f) The original written reprimand shall be given to the Member. Two signed copies of the written reprimand along with all supporting documentation shall be forwarded to the Internal Affairs Bureau for retention. The completed written reprimand shall be referenced in the Member personnel file.
- (g) The Member's rights are guaranteed by the County Grievance Procedure.
- (h) The records pertaining to the written reprimand shall be retained for five years after the investigation file is closed in accordance with the Department's Records Control Schedule.

#### **347.3.1 EMERGENCY SUSPENSION FROM DUTY**

In the absence of the Sheriff Coroner, the Undersheriff, the Assistant Sheriffs, the Commander concerned, or the Department Commander concerned, in that order, has the authority to impose an emergency suspension, with pay, from duty until the next business day, or such earlier time that such suspension can be reviewed by the Sheriff Coroner.

#### **347.3.2 INVESTIGATION OF COMPLAINTS**

1. Upon receipt of a complaint alleging misconduct, the Sheriff or designee shall direct the investigation of said complaint. Upon conclusion of the investigation one of the following findings shall be made by the Sheriff or designee and stated in the report. The Member shall be advised of the disposition.
  - (a) Unfounded: Investigation indicates that the act or acts complained of did not occur or involve Department Member.
  - (b) Exonerated: Act or acts did occur but were justified, lawful or proper.
  - (c) Not Involved: Investigation establishes that the Member was not involved in the alleged incident.
  - (d) Not Sustained: Investigation fails to discover sufficient evidence to clearly prove or disprove misconduct on the part of the Member.
  - (e) Sustained: Investigation discloses sufficient evidence to clearly prove misconduct on the part of the Member.
2. Such reports and findings shall be maintained in a confidential file, accessible only to the Sheriff Coroner and persons authorized by him, or through legal process.

#### **347.4 POST INVESTIGATION PROCEDURES**

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#### **347.4.1 RESPONSIBILITIES OF SHERIFF OR SHERIFF'S DESIGNEE**

Upon receipt of any written recommendation for disciplinary action, the Sheriff or designee shall review the recommendation and all accompanying materials.

The Sheriff or designee may modify any recommendation and/or may return the file to the Commander for further investigation or action.

Once the Sheriff or designee is satisfied that no further investigation or action is required by staff, the Sheriff or designee shall determine the amount of discipline, if any, to be imposed.

In the event disciplinary action is recommended, the Sheriff or designee shall provide the Member with written (Skelly) notice of the following information within one year of the date of the discovery of the alleged misconduct (absent an exception set forth in Government Code § 3304(d) or 3508.1):

1. Specific charges set forth in separate counts, describing the conduct underlying each count.
2. A separate recommendation of proposed discipline for each charge.
3. A statement that the Member has been provided with or given access to all of the materials considered by the Sheriff in recommending the proposed discipline.
4. An opportunity to respond orally or in writing to the Sheriff within ten days of receiving the Skelly notice.
  - (a) Upon a showing of good cause by the Member, the Sheriff may grant a reasonable extension of time for the Member to respond.
  - (b) If the Member elects to respond orally, the presentation may be recorded by the Department. Upon request, the Member shall be provided with a copy of the recording.

#### **347.5 RESIGNATION OR RETIREMENT PRIOR TO DISCIPLINE**

In the event a Member subject to an administrative investigation resigns or retires prior to the completion of the administrative investigation and/or imposition of discipline, their decision to do so along with any documentation shall be memorialized in the administrative investigation file. The investigation shall be completed as noted in this policy and the separated Member shall be afforded any post investigatory rights as required by law. Separation prior to the completion of the administrative investigation, or with pending or potential discipline from an investigation, may impact the Member's ability to be considered honorably retired and/or designated "resigned from service".