

**FREDERICK POLICE DEPARTMENT  
GENERAL ORDER**

**Section 16:** Professional Ethics and Discipline **Order Number:** 1620  
**Topic:** DISCIPLINE **Issued by:** Chief of Police  
**Approved:** 06/01/12  
**Review:** Annually in April by Professional Services Commander  
**Supersedes:** G.O. 1620 dated 04/01/08  
**Form PSD-003A name changed from Remedial Action form to Performance Action Form throughout 05/13**

**.01 PURPOSE:**

To outline the closure of internal investigations, immediate corrective action, emergency relief from duty, suspension hearings, and information to be furnished upon dismissal.

**.02 CROSS-REF:**

G.O. 1610, "Complaints and Internal Investigations"  
G.O. 1615, "Internal Investigation Procedures"  
G.O. 1885, "Awards and Commendations"  
SOP PSD-001, "Formation and Conduct of Administrative Hearing Boards"  
Administrative Hearing Manual of Procedures  
Consent Decree- Mahone v. Ashton  
CALEA STANDARDS 26.1.4; 26.1.6

**.03 DISCUSSION:**

The Department has a responsibility to its employees and the community to take administrative/disciplinary action against those employees whose conduct discredits the Department or impairs its effective operation. The administrative/disciplinary process has, as its immediate purpose, the correction of aberrant behavior and the channeling of individual effort into effective and productive action. It may involve encouragement, inspiration, training or the imposition of negative sanctions. Negative sanctions administered may range from a warning (where the immediate effect is on the individual) to termination (where the positive result is reassurance to other employees of the limits upon acceptable conduct). General Orders are set forth as guidelines for acceptable and desired conduct. When violations of such guidelines occur, employees of the Department may be subject to disciplinary action.

**.04 POLICY:**

Any employee of the Frederick Police Department may be subject to appropriate disciplinary action if he commits an offense under the laws of the United States, the State of Maryland, local ordinances, or violates any General Order of the Frederick Police Department.

The "Administrative Hearing Manual of Procedures" is adopted by the Department to assist in the conduct of administrative hearings, and is intended to supplement the guidelines and mandates of the Law Enforcement Officer's Bill of Rights, the Administrative Procedures Act and the general orders of the Department.

**.05 DEFINITIONS:**

All definitions in G.O. 1610, "Complaints and Internal Investigations"

ADMINISTRATIVE ACTION – Any action that the Department imposes as full or partial resolution of a sustained violation of Department general orders.

DISCIPLINE – Any formal sanction or resolution to a sustained complaint against an employee,

which may consist of any negative sanction, from Reprimand up to and including dismissal.

**.10 ACTIONS AVAILABLE:**

1. When corrective action is indicated, one or more of the following administrative/disciplinary actions may be taken, subject to the provisions of the Law Enforcement Officer's Bill of Rights (LEOBR) (as applicable) and/or the General Orders of the Department:

A. **Performance** (non-disciplinary)

- Verbal Counseling/ Notation for Performance Evaluation
- Documented Counseling Session
- Training/Retraining

(1) Any corrective action that is handled or closed as performance must be documented as follows:

a. Verbal Counseling/ Notations for performance evaluation purposes may be recorded at the squad/unit level in accordance with G.O. 1830. Performance closures of external Complaints must be closed by the use of Form PSD-003A, "Performance Action Form" (PAF).

b. Documented Counseling Sessions may be in memorandum form, from the supervisor to the officer, outlining the violation and other pertinent information. The document will also state that a copy of the counseling session will be made a part of the employees unit file and the infraction will be noted on their performance evaluation. The supervisor may also use a PAF. Copies of Documented Counseling Sessions will be forwarded to PSD for appropriate filing.

(2) Complaints that are closed with notations for performance evaluation are not subject to the LEOBR.

(3) Division Commanders must approve performance closures of all Complaints against subordinates.

B. **Disciplinary**

- Reprimand
- Loss of Leave
- Suspension
- Fine
- Demotion in rank/grade
- Termination/Dismissal from the Department

(1) Bureau Commanders may approve discipline except termination, demotion, suspensions from duty in excess of three (3) days per investigation, or in cases of sustained excessive/inappropriate force, sexual harassment, or law violations. Bureau Commanders will notify the Chief in all cases in which a suspension is warranted.

- (2) Demotion, termination, and/or suspensions from duty in excess of three (3) days, as well as all recommendations for discipline for excessive or inappropriate force, sexual harassment or law violations must be approved by the Chief of Police.
2. The Office of the Chief may offer and/or impose any sanction or action not listed above if it is believed to be in the best interest of the agency and that the circumstances indicate a resolution different from those generally imposed, subject to all applicable laws, rules, and regulations.
3. Upon a decision being reached that disciplinary action will be imposed/sought, the Office of the Chief, through the PSD, will cause the appropriate paperwork to be completed and served on the accused employee:
  - A. For sworn employees covered by the LEOBR, forms PSD-009, "Notification of Departmental Charges" and PSD-006, "Notification of Approved Disciplinary Action and Response," or form PSD-008, "Offer of Summary Punishment" will be completed, as applicable. These forms detail the allegation(s) and the proposed disciplinary action, and give the officer a period of time in which to decide to either accept or decline the offer.

If the employee declines a proposed disciplinary action, the entire investigative file and charging documents will be submitted to the Professional Services Division (PSD) for the scheduling of an administrative hearing board.
  - B. For civilian or probationary sworn employees, form PSD-001, "Administrative Action Form" will be completed and served on the employee.

**.12 DOCUMENTATION OF DISCIPLINE:**

1. The PSD will include documentation of disciplinary actions taken in the investigative file.
2. Supervisors of employees who are suspended from duty for disciplinary reasons will ensure that a copy of the "Daily Report" for the days such suspension is served is forwarded to PSD.
3. Fiscal Affairs will ensure that documentation showing the loss of any leave or the deduction of any fines is provided to PSD in an acceptable form.

**.14 CONSEQUENCES OF SUSPENSION- SWORN PERSONNEL:**

Any sworn employee who has been suspended from duty will be deprived of all police powers and privileges. He will not represent himself under any circumstances as a member of the Department, and will not wear the uniform or any part of the uniform and will surrender, prior to or at the beginning of any period of suspension, his badge, Department identification card, Maryland Police Training Commission identification card, and any other requested or required department property.

**.15 NOTABLE PERFORMANCE:**

Supervisors are encouraged to document observations or comments that are commendatory of employees, and forward these to the Office of the Chief for appropriate recognition in accordance with G.O. 1885, "Awards and Commendations."

**.20 DOCUMENTATION OF COMPLAINTS:**

All complaints will be documented as required in G.O. 1610, "Complaints and Internal Investigations," and G.O. 1615, "Internal Investigation Procedures." Complaint Reception Forms will be sent to the PSD for appropriate disposition.

**.25 DISPOSITION OF INVESTIGATIONS:**

1. If an internal investigation results in a finding of other than "sustained," PSD will prepare for the accused employee a memorandum advising the employee of the closure of the case and its classification.
2. After the closure of any sustained internal investigation where discipline will be imposed, either by imposition/acceptance of approved disciplinary action, or a finding of guilt by an administrative hearing board (and after the Chief of Police determines the final discipline to be imposed), the PSD will cause a Personnel Order to be issued detailing the closure of the case. The Personnel Order will contain the discipline imposed, the content of any entry into an employee's service record, and the employee's right to comment on the disciplinary action. Personnel Orders will be served by command officers as approved by the Chief of Police.
3. If a sustained investigation will result in a performance closure (non-disciplinary), PSD will ensure that the employee is notified in writing of the closure, either through the use of a PAF served by the supervisor, or through a memorandum advising them of the closure.
4. The entire investigative file, including any administrative hearing paperwork/files, as well as a copy of the Personnel Order or other paperwork closing an investigation, will be submitted to PSD for filing.
5. The Personnel Unit Supervisor will ensure that Personnel Orders are placed in personnel files and that disciplinary action is noted on the employee's service record. All formal disciplinary actions will be placed on service records.

**.30 APPEALS:**

1. Sworn officers covered by the LEOBR are entitled to appeal any decision of an administrative hearing board to the Circuit Court in accordance with the LEOBR.
2. Probationary sworn officers who are not covered by the LEOBR have ten (10) days to appeal disciplinary actions approved by a Bureau Commander to the Chief of Police, whose decision is final. Probationary sworn officers not covered by the LEOBR have no appeal for disciplinary actions that have been approved by the Chief of Police, other than as provided by law.
3. Non-probationary civilian employees who desire to appeal disciplinary actions may do so by filing an appeal within 30 days of the disciplinary action.
  - A. Appeals of any demotion, termination, or suspension from duty must be made in writing to the Personnel Board through the Director of Human Resources for the City. The Personnel Board shall report its findings and recommendations to the Mayor and Board of Aldermen, who shall make the final decision in executive session.
  - B. Appeals of any other disciplinary actions that have been approved by a Bureau Commander may be made to the Chief of Police, whose decision is final. There is no appeal for other disciplinary actions that have been approved by the Chief of Police, other than as provided by law.

4. Probationary civilian employees, part-time employees, appointees, and volunteers have ten (10) days to appeal disciplinary actions approved by a Bureau Commander to the Chief of Police, whose decision is final. Such personnel have no appeal for disciplinary actions that have been approved by the Chief of Police, other than as provided by law.
5. In all cases, an appeal of a disciplinary action does not stay the implementation of that action.

**.35 INTERDIVISIONAL INTERVENTION/ CORRECTIVE ACTION:**

When the improper conduct of an employee of one unit is of such a nature that immediate supervisory corrective action is required of a command officer or supervisor of another unit, such action is to be taken at once. The command officer or supervisor intervening will notify the employee's supervisor of the incident and the action taken. The intervening supervisor/command officer will document the incident in writing if the employee's supervisor requests that this be done, if an investigation is to be initiated, or if it appears to be in the best interests of the Department to do so.

**.40 EMERGENCY RELIEF FROM DUTY:**

1. Command officers, sergeants, other supervisors, and those acting in that capacity, are authorized to suspend on an emergency basis any employee of the Department **WITH PAY** when acts alleged or committed by such employees are of such nature that, in the judgment of the suspending officer, the interest and welfare of the public, the Department, and/or the individual may be best served by such action.
  - A. The supervisory or command employee imposing the emergency suspension will initiate a Complaint Reception Form and a preliminary report that same tour of duty briefly and succinctly outlining the circumstances resulting in the revocation or suspension and submit one completed copy to PSD and a second via the chain of command to the Chief of Police immediately after the suspension
  - B. The original CRF and a copy of the preliminary report is to be forwarded to the Professional Services Division at the same time as the report is forwarded through the chain of command.
2. All investigations of suspended members will be given a tracking number by PSD. Emergency suspensions without pay of sworn employees covered by LEOBR may only be imposed if the officer has been charged criminally with the commission of a felony.
3. Command officers may recommend the suspension of the police powers of sworn employees under their command if circumstances are brought to their attention that indicate it is not appropriate for an employee to continue in their assigned duties.
  - A. Such recommendations will immediately be made in a preliminary report briefly and succinctly outlining the circumstances resulting in the suspension of police powers in that same tour of duty. One copy submitted to PSD and a second via the chain of command to the Chief of Police. Conditions should be noted that require the suspension of duty and recommendation on what is needed to return to duty.
  - B. Sworn employees whose police powers have been suspended will immediately surrender their badge, their departmentally issued firearm(s), their Departmental, and Maryland Police Training Commission identification cards, and any other equipment requested to be surrendered, as deemed appropriate by their commander.
  - C. Suspension of Police powers: the chain of command or PSD will conduct a detailed report or investigation as appropriate to recommend suspension of police powers and determine circumstances or conditions for returning the officer to duty.

**.45 SUSPENSION HEARINGS:**

1. Any employee suspended from duty will be ordered to appear for a suspension hearing to determine whether such suspension will be continued or terminated, and, if such suspension from duty is to be continued, whether it will be with or without pay. **The**

**suspension hearing will be held within three business days following the suspension from duty exclusive of weekends and holidays.**

2. The suspension hearing is not a judicial proceeding, nor is it directed to findings of fact or law. The suspension hearing is limited to the presentation of the circumstances surrounding the suspension of the employee in order to determine whether such circumstances warrant continued suspension, and whether the continued suspension should be with or without pay. When the acts alleged to have been committed by a suspended employee are of such a serious nature that, in the judgment of the suspension hearing officer, the interests and welfare of the public, the department, and/or the individual are best served by continued suspension, then the suspension hearing officer will recommend to the Chief of Police that the suspension continue. If not, then the hearing officer will recommend to the Chief that the suspension be rescinded and the employee returned to duty, with or without restrictions. If a sworn officer has been criminally charged with the commission of a felony, then the Chief of Police, in accordance with the LEOBR, may suspend him from duty without pay and without a suspension hearing.
3. Suspension Hearings will be conducted as follows:
  - A. Generally, the suspension hearing officer will be the bureau captain or director of the suspended employee. In the event the bureau captain, director, or the Chief of Police is the officer who suspended the employee, the Chief of Police will conduct the suspension hearing. However, the Chief of Police may appoint any appropriate command member to serve as the Suspension Hearing Officer if it is deemed advisable to do so.
  - B. Suspended employees may be accompanied by counsel; however, only matters dealing directly with the issue of the suspension will be heard.
  - C. The suspending officer, the suspended employee, and the suspended employee's supervisor and division commander will attend this hearing unless excused for cause. The suspended employee will have the right to present testimony in his own behalf **as to the issue of suspension**. The suspension hearing officer will not consider matters in extenuation and mitigation. He will be the final authority as to what testimony will be heard. The suspending officer or the suspension hearing officer may, at their discretion, request the assistance of the City Legal Department at any hearing.
  - D. Suspension hearings are not public in nature. Members of the general public, the Department, or of the news media will not be admitted to such hearings unless called upon to testify in matters relating to the purpose of the hearing. Further, evidence presented at suspension hearings is confidential in nature.
  - E. An official record will be maintained and will contain the exact times of the hearing, as well as any recess periods commenced and terminated.
  - F. Based on statements presented, the suspension hearing officer will recommend to the Chief of Police whether the suspension should be continued, and whether such suspension will be with or without pay. The suspension hearing officer will advise the employee as to his decisions, and promptly submit a written report of

his recommendation to the Chief of Police, who will approve or disapprove of the action. The Chief will cause a Personnel Order to be issued to document his actions. If the Chief of Police is the hearing officer, he will document his decisions in the matter by Personnel Order.

- G. If the Chief of Police determines to modify or disapprove the recommendation for suspension, he will do so in writing. The Chief may, at his discretion, suspend the police powers of sworn employees and assign them to non-police duties with pay pending the resolution of any allegations against them, in accordance with the LEOBR.
  - H. The results of the suspension hearing and any subsequent action by the Chief of Police will be included in the internal investigation report.
- 4. Employees who are suspended from duty who wish to work Secondary Employment will be governed by the regulations contained in G.O.'s 1670 and 1672, "Secondary Employment" and "Extra-Duty Employment," respectively, as well as any reasonable additional prohibitions of the Chief of Police.
  - 5. The accused employee may waive a suspension hearing.

**.50 INFORMATION FURNISHED UPON DISMISSAL:**

- 1. When an employee is to be dismissed from the Department for misconduct, the following information will be furnished to him *in writing*:
  - A. The reason for dismissal;
  - B. The effective date of the dismissal;
  - C. The status of fringe and retirement benefits after the dismissal; and
  - D. Copies of the content of the employee's personnel file pertaining to the dismissal.
- 2. The division commander of an employee who is to be terminated from employment will meet with the employee and provide him an opportunity to comment on the incident(s) leading to the termination. Employees terminated for disciplinary matters may also submit a written comment on any disciplinary action imposed.