



POLICY & PROCEDURE

PORTAGE POLICE DEPARTMENT

SUBJECT: **DISCIPLINARY PROCEDURES**

SCOPE: All Department Personnel
DISTRIBUTION: Policy & Procedures Manual

REFERENCE: WI State Statute: 62.13(5), Chapter 164,
2021 WI Act 82

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STANDARDS: 4.2.1, 4.2.2, 4.2.3,
4.2.4

INDEX AS: Counseling
Disciplinary System

PURPOSE: The purpose of this Policy & Procedure is to establish a disciplinary system to include procedures and criteria for the use of counseling and disciplinary actions in the interest of maintaining order within the Portage Police Department and ensuring citizen trust. Levels of discipline include counseling, verbal reprimand, written reprimand, suspension, demotion, and dismissal.

This Policy & Procedure consists of the following numbered sections:

- I. PRINCIPLES OF DISCIPLINE
- II. COUNSELING AS A FUNCTION OF DISCIPLINE
- III. LEVELS OF DISCIPLINE
- IV. AUTHORITY TO USE DISCIPLINE
- V. APPEAL PROCEDURES
- VI. SERGEANTS RESPONSIBILITY
- VII. COMMAND STAFF RESPONSIBILITY
- VIII. EMPLOYMENT FILE AND DISCIPLINE

I. PRINCIPLES OF DISCIPLINE

- A. Discipline is the process by which the department ensures that each employee's conduct conforms to the standards of decorum and performance set by the department. Disciplinary action against subordinates is granted and outlined by WI State Statute 62.13(5).

In the Portage Police Department these standards are generally set forth in this Policy & Procedure as well as other Policy & Procedures covering policy and procedure. Standards may also be set by Code of Conduct, Special Order, Standard Operating Procedure, and memorandum or any other written directive approved by the Chief of Police.

- B. Discipline can take two forms of action:

1. Positive Action - When a violation occurs and a supervisor attempts to deal with the employee's misconduct through encouragement and persuasion, such as counseling, coaching letters and/or training.
2. Discipline - This is punishment of the employee for misconduct and can include an oral or written reprimand, suspension, demotion, or discharge.

- C. When carrying out the process of discipline, the following principles must be adhered to:

1. Whether the employee could reasonably be expected to have had knowledge of the probable consequences of the alleged conduct;
2. Whether the rule or order that the employee allegedly violated is reasonable;
3. Whether before filing the charge against the employee, the supervisor made a reasonable effort to discover whether the employee did in fact violate a rule or order;
4. Whether the effort described under sub. (3) was fair and objective;
5. Whether the supervisor discovered substantial evidence that the employee violated the rule or order as described in the charges filed against the employee;
6. Whether the supervisor is applying the rule or order fairly and without discrimination against the employee; and
7. Whether the proposed discipline reasonably relates to the seriousness of the alleged violation and to the employee's record of service with the department.

- D. Supervisors will not reprimand subordinates in the presence of others of subordinate rank, civilian employees, or the public. This rule does not preclude a supervisor from immediately correcting the performance of a subordinate whenever it is necessary.

- E. Supervisors shall recognize the rights of employees and employ procedural safeguards to an employee requiring discipline.

II. COUNSELING AS A FUNCTION OF DISCIPLINE

- A. The use of the counseling function within the disciplinary system is intended to provide the supervisor with an opportunity to bring noted deficiencies to the employee's attention.
- B. The supervisor should employ the counseling function to firmly advise the employee of the need to improve their performance, work habits, behavior or attitude.
- C. The counseling of the employee should serve as a firm warning to the employee against further repetition of the conduct in question.
- D. Supervisors should use the occasion to identify and define the areas needing improvement and inform the employee as to how much improvement is expected to be realistically achieved.
 - 1. If the counseling efforts of the employee's supervisor fail to bring about a remedy to the perceived problem, and the employee's unsatisfactory performance continues, one of the following steps may need to be considered:
 - a) Remedial training or performance improvement plan
 - b) Punitive action; or if appropriate;
 - c) A referral to outside counselors, as appropriate.
 - 2. Supervisors will, in most cases, document all employee counseling sessions, including the results;
 - 3. Coaching letters will be documented by written memorandum to the employee and to the chief or designee.
 - 4. Any documentation will indicate the details of performance that required the counseling, the intended purpose of the counseling, and the supervisor's observation of any effect that the counseling may have had on the employee.

III. LEVELS OF DISCIPLINE

- A. The level of discipline taken in any instance shall be determined by the seriousness of the misconduct and by the extent of wrongdoing or injury to any person.

It shall also be commensurate with the circumstances surrounding the total incident and the employee's service record, including prior sustained instances of misconduct. When an employee's misconduct is similar or identical to previous cases of his or her misconduct, the level of discipline shall be more severe than the previous offense.

- B. The levels of disciplinary action are as follows:

- 1. Minor Infraction

- a) A minor infraction is defined as a minor violation of rules, policies, and procedures, which will not discredit the department or employee.
- b) A minor infraction shall be handled by any supervisor with counseling and/or training; or by discipline through an oral or written reprimand.

2. Serious Infraction

- a) A serious infraction is defined as a violation of rules, policies, and procedures, which might discredit the department or one of its employees. Service records of minor infractions shall be handled at this level also.
- b) A serious infraction shall be handled by the Chief, Assistant Chief, Captain or Lieutenant and discipline shall range from a written reprimand up to a suspension.

3. Major Infraction

- a) A major infraction is defined as a violation of rules, policies, and procedures, which discredits the department, threatens the department's integrity, adversely affects the department's efficiency, or adversely affects the employee's ability to perform their assignment. Service records of serious infractions shall be handled at this level.
- b) A major infraction shall be handled by the Chief or Assistant Chief and range from a suspension and/or demotion to dismissal.

4. These three levels are guidelines only. The Chief may take discipline outside these guidelines when circumstances are present to warrant deviation from the guidelines.

5. Progressive Discipline

- a) The principle of progressive discipline is recognized and, under ordinary circumstances will proceed in the following succession:
 - (1) Verbal warning.
 - (2) Written warning
 - (3) One or two day suspension
 - (4) Three days or more suspension and/or possible demotion (if applicable)
 - (5) Dismissal.
- b) The department reserves the right not to follow the above when the infraction is of a serious nature.
- c) Written reprimands and/or written notations of verbal reprimands which were

not accompanied by any further disciplinary action will not remain in effect for more than 12 months but shall remain on file for 2 years.

- C. If an incident of employee misconduct results in discipline (oral reprimand, written reprimand, suspension, demotion, termination), the action shall be documented in written format.
 - 1. The notice shall state the reason and effective date of the discipline.
 - 2. The employee shall receive a copy: and the original shall be placed in the employee's personnel file located in the Chief's office.
 - 3. The employee shall also be informed of their appeal rights.
- D. Permanent employees may be discharged for just cause.
- E. Probationary employees may be discharged without cause or recourse. Their probationary period may be extended for any time period up to an additional one (1) year at any time during the probationary period without cause.
- F. In disciplinary actions, sworn employees shall be afforded their rights and safeguards as outlined in WI. State Statutes, Chapter 164: Law Enforcement Officer's Bill of Rights; also refer to Policy & Procedure 4.03: Citizen Complaints/Internal Affairs.

IV. AUTHORITY TO USE DISCIPLINE

- A. Counseling and/or training – A sergeant or higher rank
- B. Verbal reprimand - A sergeant or higher rank
- C. Relieved from duty with pay pending consultation with the Chief or designee – A sergeant or higher rank
- D. Written reprimand – A sergeant or higher rank
- E. Suspension with or without pay - Lieutenant or higher rank, Police and Fire Commission
- F. Demotion – Assistant Chief, Chief of Police / Police and Fire Commission
- G. Discharge - Chief of Police/Police and Fire Commission

V. APPEAL PROCEDURES

- A. Non-sworn non-union employees may appeal disciplinary action through the Personnel Committee Policy in the City of Portage Employee Policy Manual.

- B. Sworn employees have the right to request a hearing before the Police and Fire Commission for disciplinary action resulting in suspension, demotion, or dismissal. Other forms of disciplinary action may be appealed through the Labor Agreement Grievance Procedures.

VI. SERGEANTS RESPONSIBILITY

- A. Every sergeant has a responsibility for knowing and practicing the procedures established by the Portage Police Department to deal with employee behavior which is contrary to expectations. If supervision fails to follow the above stated procedures or is not conforming to expected behavior patterns, the sergeant shall be subjected to discipline.
- B. Sergeants are responsible for carrying out the directions of the Chief of Police of the Portage Police Department. Direction is an implicit task of supervision. Such direction is effected through formal written directives, verbal directives, and interpersonal relationships between supervisors and subordinates. Leadership is also an important part of all supervisory personnel.
- C. The Portage Police Department recognizes that leadership can occur only when each member of the department in a position of authority understands the responsibilities and knows the limits of authority to complete assigned tasks. Failure to carry out responsibilities will render the department ineffective.
- D. It is the sergeant's responsibility to provide the impetus for directing personnel and other department resources toward the attainment of department expectations. Sergeants are granted the authority to carry out these responsibilities and by the same token, are held accountable for the completion of such tasks.
- E. Sergeants must realize that their activities must be:
 - 1. Authorized;
 - 2. Departmentally authorized by written directives or Policy & Procedures; and
 - 3. Understood by everyone in the agency;
- F. Sergeants are responsible for completing the following documentation regarding disciplinary matters: (Dependent on the situation).
 - 1. Investigative Report, if warranted.
 - 2. Written suggestions for performance improvement. This report must be approved by the Chief of Police or designee prior to signing by the officer and sergeant involved in the plan.
 - 3. If a verbal warning is given, documentation of this warning must be completed and provided to the Chief of Police or designee. (See II C above.)

- G. The employee shall be given a copy of the disciplinary action documentation; and the original shall be placed in the employee's personnel file located in the Chief's office.

VII. COMMAND STAFF RESPONSIBILITY

- A. Command staff members are members of the department holding the rank of Lieutenant and above.
- B. Command staff are responsible for the sergeants of the department and the performance of their duties. It is the responsibility of command staff to ensure that sergeants are carrying out the goals and objectives of the chief through the activities of line personnel.
- C. Command staff are responsible for the orderly day-to-day operations of the department. Command staff review the activities of sergeants and line personnel on a continual basis, assuring adherence to Department Policy & Procedures and all other written directives.
- D. In discipline matters, command staff review the actions of sergeants and ensure the level of discipline applied is appropriate in each instance.

Command staff ensure that sergeants have properly documented all matters of disciplinary concern to the department. Once each instance has been completed to command staff's satisfaction, command staff are responsible for forwarding appropriate reports to the chief.

Command staff are also responsible for making recommendations to the Chief, which deal with levels of discipline beyond their authority (i.e., written reprimand, demotion, suspension, and dismissal).

- E. Command staff are granted the authority to carry out the requirements of this Policy & Procedure. Command staff are held accountable to the chief for their actions and the actions of their subordinates.

VIII. EMPLOYMENT FILE AND DISCIPLINE

- A. Per 2021 WI Act 82, effective November 8th, 2021, all discipline shall be included in each department member's employment file. Also refer to Policy & Procedure 2.07: Performance Evaluations.

Keith Klafke
Chief of Police

This Policy & Procedure cancels and supersedes any and all written directives relative to the subject matter contained herein.

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