



**General Order: 1.2
DISCIPLINARY PROCEDURES**

Effective: December 18, 1987
Last Revised: May 15, 2013

PURPOSE

The purpose of this General Order is to establish policies and procedures for the establishment of an effective and fair system of discipline for all department personnel.

All disciplinary action shall be administered for the purpose of insuring that the offense will not recur, and that the best interests of the city and the police department will be paramount. Discipline may be imposed as a counseling and educational process to assist an employee in meeting the minimum standards set by the department.

GROUND FOR DISCIPLINARY ACTIONS

The tenure of every employee shall be based on reasonable standards of personal conduct and job performance. Failure to meet such standards shall be grounds for appropriate disciplinary action, which shall be commensurate with the seriousness of the offense and with due consideration of the employee's prior performance and disciplinary record. All disciplinary action against any employee shall be based on and controlled by the provisions herein.

Causes for disciplinary action include, but are not limited to, violations of the Garden Grove Police Department General Orders Manual, Chapter 1 - Rules of Conduct.

**AUTHORIZED FORMS OF DISCIPLINE:
INFORMAL OR POSITIVE DISCIPLINE**

The forms of discipline outlined below are considered informal or positive forms of discipline. These forms of discipline may be considered when evaluating a subsequent similar violation provided that such informal disciplinary action was recorded in writing at the time of the offense and the employee was afforded an opportunity to submit a written response thereto. Positive discipline may be reported to the Chief of Police at the option of the supervisor issuing the discipline or the employee receiving the discipline.

Certification for Retraining

Certification for retraining is when a violation was caused primarily by the employee being incompetent or inadequately prepared for his/her responsibilities, and it is in the best interest of the department that the employee undergoes additional training. The specific nature and procedure for a given retraining shall be determined by the Chief of Police and/or the employee's division commander/manager.

Counseling

Counseling is when an employee is verbally made aware of his or her violation by a supervisor, but there are circumstances that impair the employee's ability to comply with the provisions contained herein; and action is taken by the supervisor to work with the employee in an attempt to correct the problem rather than take other disciplinary measures against the employee. The counseling may be documented on an "Employee Performance Log" form.

When a performance log is used to document the counseling, the supervisor shall not make reference to any potential future disciplinary action based upon the actions(s) or behavior of the employee discussed in the counseling session. For example, the concluding statement in a documented counseling on a performance log should simply read something like, "this performance log shall serve as documentation of this counseling session." Note: A counseling performance log does not entitle the employee to any type of appeal process, however, as with any Divisional performance issue, the employee may discuss the counseling performance log with the next highest level in the chain of command. The performance log is placed in the employees Division File for a one-year performance evaluation period.

Division Discipline

Division discipline is any corrective action approved by the division commander not amounting to formal disciplinary action. The corrective action shall not be of a nature that would embarrass or degrade the employee. An employee receiving division discipline may request and may receive formal discipline in its place.

Oral Reprimand

An Oral reprimand is when an employee is made aware of his or her violation verbally by a supervisor and is informed that he or she is in violation of a specific section contained herein and is instructed to comply in the future. The supervisor may make reference or comments on how similar action(s), behavior or policy violations may result in future potential punitive discipline.

The oral reprimand will be documented on a Garden Grove Police Department Intra-departmental Memorandum; however, a City of Garden Grove Personnel Action Form (PAF) is not completed. The Oral Reprimand is retained in the employee's Division File for one year from the date received.

In the event an Oral Reprimand is used to document a specific section contained herein, the employee may make an appeal to the next higher-level supervisor in the employee's chain-of-command.

The employee receiving the Oral Reprimand has four days in which to write a memorandum to the next highest level of supervision in the employee's chain of command, requesting a meeting on the matter. The finding by the supervisor is binding, and no further appeal process is allowed.

AUTHORIZED FORMS OF DISCIPLINE: FORMAL OR NEGATIVE DISCIPLINE

The forms of discipline outlined below are considered formal or negative forms of discipline and shall be considered as previous offenses when considering subsequent violations. A record of all negative discipline by an employee shall be maintained in the employee's permanent personnel file.

Written Reprimand

A written reprimand is a formal intra-departmental memorandum reprimand by a supervisor and approved by the Chief of Police, or his designee, finding a subordinate in violation of a specific section(s) contained in the Rules of Conduct and stating that the violator has been formally or officially reprimanded. The disciplined employee shall be advised of the finding in writing by use of the City of Garden Grove Personnel Action Form. In any disciplinary action resulting in a written reprimand, the Chief of Police need not require the employee to appear before him although the employee may demand and receive the reprimand from the Chief of Police personally.

In the event of a written reprimand, if an employee wishes to appeal the disciplinary action to a higher level, he or she may request a meeting with the Chief of Police via memorandum. The finding by the Chief of Police is binding, and no further appeal process is allowed.

Suspension

Suspension is the temporary removal of an employee's name from the city payroll and from his/her position and the seizing of his/her badge, identification card and department issued firearm, if applicable. The Chief of Police, or his/her designee, may suspend an employee for the good of the city or police service and for violating reasonable standards of personal conduct and job performance. Unless extended by approval of the City Manager, the maximum period of suspension shall be 30 working days. All suspension days shall run consecutively and shall not include any scheduled days off.

The department may choose to offer an employee who is subject to a suspension the alternatives of a salary step reduction or loss of accumulated vacation time of an equal monetary value, and has the right to utilize a mandatory step reduction as a form of discipline.

Demotion

Demotion is the reduction of an employee from a position in one class to a position in another class having a lower maximum salary rate. The Chief of Police shall advise the Personnel Officer in writing of his/her intention to demote an employee prior to taking such action.

Dismissal

Dismissal is the involuntary separation of an employee from the city service upon a sustained violation of General Order 1.1. The Chief of Police shall advise the Personnel Officer in writing of his/her intention to dismiss an employee prior to taking such action unless there are reasonable circumstances which prohibit such notification. In dismissing an employee, the Chief of Police shall make an order in writing, stating specifically the

cause for dismissal and the effective date of the dismissal. The Chief of Police shall give a copy of said order to the employee and forward a copy to the Personnel Director. The Chief of Police may allow the employee to resign in lieu of dismissal if he believes a resignation may be in the best interests of the city or police department and/or the employee.

DISCIPLINARY PROCEDURES

Whenever a supervisor discovers that a subordinate may have violated the Rules of Conduct or engaged in other misconduct, he/she shall investigate the matter thoroughly and take immediate action. Investigations into alleged employee misconduct can be initiated at any level in the chain of command. Whenever an employee believes that a violation of General Order 1.1, Rules of Conduct, has occurred, the employee shall submit a written memorandum to his/her immediate supervisor. The supervisor has the responsibility to take appropriate action to ensure that the matter is investigated promptly and thoroughly.

Whenever an employee feels that his/her supervisor or any other supervisor in the department is in violation of the Rules of Conduct, General Order 1.1, he shall submit a memorandum to the Chief of Police detailing the circumstances. The Chief of Police or his/her designee will cause an investigation to be conducted.

If an investigation into alleged misconduct results in a conclusion that violation of General Order 1.1, Rules of Conduct, has occurred, then a recommendation for disciplinary action shall be initiated from within the bureau where the employee is assigned.

In all disciplinary actions other than positive or informal discipline, the supervisor shall prepare all memoranda and reports pertinent to the investigation for the Chief of Police, or his/her designee. The supervisor will include a recommendation of the disciplinary action to be taken. All pertinent reports and memoranda will be reviewed through the employee's chain of command.

All forms of positive or informal discipline may be carried out by a supervisor without the approval of his/her immediate supervisor or the Bureau Commander.

DISCIPLINARY INTERVIEWS

If at any time during an investigation into misconduct it becomes necessary to interview a sworn employee of the department, the person conducting the interview shall adhere to all of the procedural rights afforded the employee under the Public Safety Officers Procedural Bill of Rights Act. (Government Code Sections 3300-3311 - this legislation is also referred to as "AB 301 Rights.")

There is no legal requirement to advise non-sworn employees of the procedural rights specified in the Public Safety Officers Procedural Bill of Rights; however, all interviews must be conducted under the following conditions:

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1. The interview shall be conducted at a reasonable hour, preferably at a time when the employee is on duty, unless the investigation is such that an immediate interview is required. If an employee is interviewed during off-duty time, the employee shall be compensated for such off-duty time in accordance with regular department procedures.
2. The interview shall take place at either an office within the police facility or any other place agreeable to both parties.
3. The employee under investigation shall be informed prior to such interview of the nature of the investigation; the rank, name, and command of the officer in charge of the investigation; the interviewing officers; and all persons present during the interview. All questions directed to the employee being interviewed shall be asked by and through no more than two interviewers.
4. Interview sessions shall be for reasonable periods of time and shall allow for such personal necessities and rest periods as are reasonably necessary.
5. An employee being interviewed shall not be subjected to offensive language. No promise of reward or threat of disciplinary action shall be made as an inducement to answer or to elicit a specific answer to any question. An employee shall not be ordered to submit to visits or interviews by the press or news media. The employee's home address, photographs, or phone number shall not be given by the department to the press or news media without the employee's express written consent.
6. The complete interview of the employee including the identification by time of all recess periods shall be tape recorded, and there shall be no unrecorded questions or statements. At the request of the employee under investigation, a copy of the tape of the interview shall be made available to the employee if any further proceedings are contemplated by the department or any other agency known to the department. The employee may tape record the interview for his/her own use.
7. If the employee about to be interviewed is under arrest or is likely to be placed under arrest as a result of the interview, the employee shall be completely informed of the employee's constitutional rights under the Miranda decision prior to the commencement of any interview.
8. If the employee being interviewed is a peace officer and it appears that the officer may be charged with a criminal offense as a result of his/her misconduct, or the officer refuses to answer a question on the grounds that it may be self-incriminating, the officer shall be given a "Lybarger" warning. Such warning shall include advising the officer that although he/she has the right to remain silent and not incriminate him/herself, his/her refusal to answer a question may be deemed insubordination for which he/she may be disciplined, and that any statement made under the threat of disciplinary action could not be used against him/her in any subsequent criminal proceeding.
9. An employee about to be interviewed shall have the right to be represented by counsel, an employee association member, or anyone else not connected with the investigation. The representative may be present at all times during the interview(s), but may not participate or interfere with the investigation.
10. An employee shall have the right to name witnesses to be interviewed by the investigating officer.

DISCIPLINARY PROCEDURES FOR SPECIAL CIRCUMSTANCES

When conducting Internal Affairs investigations into allegations of misconduct, it may become necessary to require an employee to:

1. Undergo a medical or laboratory examination, at the department's expense, when the examination is specifically directed and narrowly related to a particular Internal Affairs investigation being conducted by the department;
2. Be photographed, if no current photo is available in the department files;
3. Participate in a lineup; and
4. Submit financial disclosure statements.

All of the procedures outlined above will be completed in accordance with current state law, the Public Safety Officers Procedural Bill of Rights Act (California Government Code Sections 3300 - 3311), and any other applicable laws or current Memorandum of Understanding.

EMERGENCY ADMINISTRATIVE LEAVE

Any Bureau or Division Commander/Manager has the authority to place an employee on immediate, paid administrative leave when it appears that such action is necessary and in the best interest of the department. The person issuing the suspension will notify his/her immediate superior and the Chief of Police of the action taken and prepare a written memorandum to the Chief of Police. The badge, identification, and department-issued weapon will be taken from the suspended employee. The employee may be placed on administrative leave with pay pending an investigation into the matter or notification by the employee's Bureau Commander.

An employee placed on emergency administrative leave by his/her Division Commander/Manager shall be required to report to his/her Bureau Commander the following working day at a specified time. The division commander/manager imposing the administrative leave shall also report to the Bureau Commander the following day and advise him/her of the action taken.

REPORTS OF DISCIPLINARY ACTION

Whenever formal disciplinary action is taken or recommended, the format attached to this General Order is to be used. The report is to be directed to the Chief of Police via the chain of command.

At the conclusion of the formal disciplinary action, the supervisor initiating the discipline will complete a department Disciplinary Action Report. The report summarizes the discipline and is maintained in a file established by the Administrative Services Bureau Commander as a means of reviewing the number and types of disciplinary actions completed. The report also allows for consistency in the imposition of discipline for specific violations. A copy of the Disciplinary Action Report is attached to this General Order.

DISCIPLINARY RECORDS

Counseling or positive disciplinary actions as authorized in this General Order may be documented at the discretion of the supervisor or manager on an Employee Performance Log or Intra-Departmental Memorandum. Any written documentation will be reviewed by the employee and placed in his/her personnel file at the division level. The employee shall have the opportunity to submit a written response thereto.

The file can be purged after all entries have been appropriately documented in the employee's annual evaluation or up to one year from the date of occurrence, whichever occurs first.

Formal or negative disciplinary actions shall be documented on a Personnel Action Form (attached) and a copy given to the employee and the Personnel Officer.

All documentation supporting the imposition of formal or negative discipline shall be reviewed by the employee, and placed in his/her permanent personnel file.

The employee may submit a written request that a disciplinary action be purged from his/her permanent employee file. The Chief of Police or his/her designee will make a final decision on the request.

NOTICE OF DISCIPLINARY PROCEEDINGS (SKELLY NOTICE)

It is the policy of this department to adhere to the requirements of the Skelly decision and notify the employee of any pending disciplinary action that involves a loss of compensation. This includes discipline in the form of dismissal, suspension without pay, demotion, or punitive transfer if a pay decrease is involved. The employee is formally notified of the pending disciplinary action in the form of a standardized written memorandum. A copy of the investigation package, including copies of any tape recordings, and any other materials upon which the proposed disciplinary action is based, are given to the employee.

A sample of the Notice of Disciplinary Proceedings memorandum (Skelly Notice) is attached to this General Order.

DISCIPLINARY (SKELLY) MEETING

The employee shall have the opportunity to respond orally or in writing to the proposed discipline. If the employee chooses to respond orally and in person, he/she has the right to be accompanied or represented by an individual of the employee's choice as long as that person is not associated with the investigation or the disciplinary action.

If the recommended discipline is a suspension of 80 hours or less, the Skelly meeting shall be held before a Bureau Commander (Captain). For any discipline more severe than an 80-hour suspension, the Skelly meeting shall be held before the Chief of Police.

At the conclusion of the Skelly meeting, the Bureau Commander or Chief of Police shall prepare a memorandum setting forth his/her decision as to the discipline to be imposed.

APPEAL PROCEDURES

All authorized appeals of disciplinary actions shall be governed by Section 2.44.390 of the City of Garden Grove Municipal Code as follows:

1. The appeal procedure described herein shall apply to cases of disciplinary action resulting in suspension, reduction in pay, demotion, or dismissal. It shall not be applicable to written reprimands unless otherwise required by law. It shall not be applicable to at-will employees, probationary employees, temporary employees, part-time unbenefited employees, or members of appointive boards, commissions and committees.
2. Following a Skelly meeting, if requested by the employee, and/or a review of any documents or statements provided by the employee, the Human Resources Director shall cause to be served on the employee affected, by registered mail or personal delivery, a statement signed by the Appointing Authority of the final discipline, if any, imposed. This statement shall clearly inform the employee that he has the right, within seven (7) working days after receipt of this notice, to appeal the decision by filing a notice of appeal with the Human Resources Director.
3. If within the seven (7) day appeal period the employee involved does not file said notice of appeal, unless good cause for the failure is shown, the action of the Appointing Authority shall be conclusive with no further right of appeal.
4. If within the seven (7) day appeal period, the employee involved files such notice of appeal, a Hearing Officer shall be selected by mutual consent of the Human Resources Director and the Appellant from a panel submitted by the American Arbitration Association or such other source as is mutually agreeable.
5. The cost of the Hearing Officer shall be shared equally by the City and the Appellant, unless otherwise required by law.
6. At least ten (10) working days prior to the hearing, the Appellant shall have the right to submit to the Human Resources Director the names of City employee witnesses to testify on his behalf. These witnesses shall be made reasonably available by the City for their presence at the hearing.
7. The Appellant shall have the right to be represented at the hearing, which shall not be bound by technical rules of evidence.
8. After the conclusion of the hearing, the Hearing Officer shall notify the Appellant and the Human Resources Director of his decision. This decision shall be subject to review by the City Manager and City Council, with the review limited to the record regarding hearing procedures.

NOTE: Under the current Memorandum of Understanding between the City of Garden Grove and the Garden Grove Police Association, the above appeals procedures shall not be available for either a "Warning/Reprimand" or "Suspension" of less than one (1) work day.

GARDEN GROVE POLICE DEPARTMENT
INTRA-DEPARTMENTAL MEMORANDUM

DATE: _____

FROM: _____ TO: Kevin J. Raney, Chief

SUBJECT: _____ DISCIPLINARY ACTION _____

Employee Involved:
Date of Hire:
Current Assignment:
Shift - Days Off:
Date of Violation:
Prior Similar Discipline:
(include dates)

ALLEGATION(S):

This section is to explain what the officer is accused of and the appropriate violation.

FACTS:

This section contains a factual statement of what transpired.

INVESTIGATION:

This section contains the details of the investigation.

MITIGATING CIRCUMSTANCES:

This section documents and gives consideration to any mitigating circumstances. Mitigating circumstances are those facts or other information that may affect the final recommendation.

RECOMMENDATIONS:

This section is a simple statement of the investigating employee's recommendation for the type of discipline to be imposed.