

<b>DOUGLAS COUNTY SHERIFF'S OFFICE</b>		<b>Policy and Procedure</b>
<b>Personnel Investigations</b>		<b>P&amp;P-I-100</b>
<b>Definition of Terms</b>		
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## I. DEFINITION OF TERMS

### *Administrative Insight*

An articulation, from the member's supervisor, that states the findings of the investigation and recommends disciplinary action, if any.

### *Administrative Leave with Pay* <COM 1.4.8>

Temporary relief from duty with pay. Administrative leave is not disciplinary action and may be ordered by the senior ranking supervisor on-duty. The Sheriff and chief deputy will be notified of the administrative leave through the chain of command and reasons therefore as soon as possible. The member's division commander, or designee, may elect to obtain the member's Office identification card, badges, keys, cell phone, pager, and any Office issued weapons and ammunition. Access to the Douglas County computer network may be suspended. Circumstances that justify leave with pay may include, but are not limited to:

- The member faces pending disciplinary action, serious policy violation or criminal violation and the Division Captain or senior ranking supervisor determines the member's presence could cause a disruption to the good order of the Office.
- The member has used his firearm in the performance of duty (except to euthanize an animal or at sanctioned training).
- The member has used force that resulted in death or serious bodily injury. <1.3.8>
- The member's action in an official capacity resulted in death or serious bodily injury. <1.3.8>
- The member is involved in a serious accident involving a County vehicle.
- The member is not fit for duty due to alleged drug or alcohol use, or some other physical or mental impairment.
- It is determined to be in the best interest of the employee, the Sheriff's Office, or the public.

### *Administrative Leave without Pay* <COM 1.4.8>

Temporary relief from duty without pay. Administrative leave without pay will not be considered disciplinary action, and will be ordered only by the Sheriff, Undersheriff, or chief deputy. The member's chief, or designee, will obtain the member's Office identification card, badges, keys, cell phone, pager, and any Office issued weapons and ammunition. Access to the Douglas County computer network will be suspended.

### *Appeal* <COM 3.6.7>

Members of this Office have the opportunity to appeal disciplinary findings. If a member resigns pending an investigation, the investigation is still completed and the member

waives his right to appeal. Written appeals submitted by the member must state a substantial basis for the appeal in order to be considered. The member must submit any appeals in memorandum format. <26.1.6><7E-01>

***Business Days***

Business days are defined as the days between and including Monday through Friday, and do not include weekends or county holidays.

***Commanding Officer***

The head of the bureau or division of the member under investigation, whether or not such person is a sworn officer. When a member under investigation has both a division and a bureau head, the lower ranking person will be considered the commanding officer.

***Complaint***

An allegation of misconduct. Citizen inquiries into procedural or operation issues do not constitute a complaint (service inquiry).

***Confidential Investigation***

An allegation of misconduct in which it would be detrimental to the investigation to follow the standard notification procedures, as determined by the Sheriff, Undersheriff, chief deputy, or the Internal Affairs commander. Internal Affairs will conduct these investigations at the direction of the Sheriff, Undersheriff, or chief deputy.

***Demotion***

Reduction in rank.

***Disciplinary Action***

A punitive action taken in response to a violation of a policy, an order, or law, intended to modify a specific type or pattern of behavior.

***External Complaint***

Complaints made by citizens or any entity outside of the Douglas County Sheriff's Office. All complaints will be accepted, whether made in person, by a third party, over the telephone, mailed anonymously or through the media. If the complainant appears to be intoxicated, they can be asked to make an appointment when their condition improves.

***Garrity Advisement***

An advisement of immunity established through *Garrity v. New Jersey*, 385 U.S. 493 (1967). Once provided with a Garrity Advisement, a public employee may be terminated if he refuses to answer questions specifically, directly and narrowly related to official duties; and may be terminated if the answers provide cause for dismissal.

***Inquiry***

See '*Service Inquiry*'.

### ***Internal Affairs (IA) Investigations***

Serious policy violations that include, but are not limited to: discrimination, sexual harassment, violation of local, state or federal laws, use of force, repeated preventable traffic accidents, and other complaints as may be determined by the Sheriff, Undersheriff, or chief deputy. Any policy violation by a member who has been placed in probation status due to disciplinary procedures will be an IA investigation. IA complaints will be accepted and investigated regardless of the date of occurrence. Policy violations such as disobedience to orders, performance of duty, on/off-duty conduct, willful misconduct, and repeated PCR investigations are also included. However, complaints of this nature will generally only be accepted up to one year after the date of occurrence. Exceptions to the time deadline may occur due to allegations reported as a result of an on-going court proceeding that has passed the deadline. <52.2.1a><52.2.1b> <COM 1.4.1ab>

### ***Internal Complaint***

Complaints made by a member of the Sheriff's Office. <COM 1.4.1a>

### ***Investigator***

Any member of the Sheriff's Office who conducts an internal investigation.

### ***Letter of Counsel***<26.1.4b> <COM 3.6.5b>

A letter documenting a formal conversation between a member and a supervisor counseling the member for a performance issue. This is considered to be the next step above a corrective action / coaching notes. A supervisor will prepare the letter, which will contain a brief explanation of the event, the performance deficit, the expected behavior or standard and a time frame for improvement. A letter of counseling is not punitive. However, as they are performance-related, they may be taken into consideration for transfer, special assignment, or promotional testing processes. Circumstances that justify a letter of counsel may include, but are not limited to:

- Minor policy and procedure violations.
- Minor supervisory issues, such as initial tardiness, sick time abuse, etc.

### ***Letter of Reprimand***

A letter documenting a member's reprimand due to a policy violation. A supervisor will prepare the letter, which will contain a brief explanation of the event, the performance deficit, the expected behavior or standard and a time frame for improvement. It is distinguished from a letter of counseling in that it is punitive; the existence of a letter of reprimand in an employee's file will be weighed in the employee's attempts to pursue promotion or reassignment, and a 2-year letter of reprimand may preclude the member's participation. Circumstances that justify a letter of reprimand may include, but are not limited to:

- Repeated minor policy and procedure violations.
- Repeated minor supervisory issues, such as tardiness, sick time abuse, failure to report to court.
- A policy and procedure violation that is more serious than a violation that would receive a letter of counsel, but less serious than other disciplinary actions.
- A 1-year letter or reprimand issued by a supervisor as the result of a PCR Complaint investigation must be issued through and approved by the affected member's division

commander prior to issuance to the member. If a member is suspended for a period of up to three days without pay, a 1 year letter of reprimand must accompany the suspension.

- A 1-year letter of reprimand issued as the result of a PCR Complaint investigation may not be accompanied by a pay freeze or reduction in rank.
- A 2-year letter of reprimand must accompany a pay status freeze and/or reduction, or demotion. A 2-year letter must accompany a suspension without pay when the suspension is more than 3 working days.

### ***Mediation***

Two of the programs available from Community Mediation Concepts are designed to address inter-office disputes and to provide citizen-officer complaint mediation. Participation in both programs require the concurrence of all involved parties and for the recommending supervisor to submit a memorandum (and PCR if applicable) to the Professional Standards Chief Deputy. See *P&P-C-106* and *PAT-N-228* for further information and procedures.

### ***Member***

Any person who is an employee or volunteer of the Douglas County Sheriff's Office, whether noncommissioned or commissioned; within this policy only, 'member' shall also mean any person who possesses a special or limited commission as a Douglas County deputy sheriff.

### ***Non-Investigative Resolution***

The Office recognizes that most cases of misconduct are not ethical or moral violations requiring severe punishment, but lapses in judgment or deviations from typical processes. It is therefore our policy to conclude member misconduct through the use of a non-investigative resolution whenever possible. Non-investigative resolutions are available for minor acts of misconduct.

This process allows an accused employee to (1) avoid a lengthy and possibly stressful investigation; (2) admit their mistake, receive a sanction and move on, or volunteer exculpatory information that will exonerate them; and (3) ease the burden on themselves and the Office related to the investigative process.

A command officer may call for a standard internal investigation for an incident that may have otherwise qualified for a non-investigative resolution. This would be based on the need to have the details of the incident discovered so that any security, procedural or on-going training can be improved to assist in preventing a repeat of a similar incident.

### ***Non-Testimonial Evidence***

Evidence not comprised of testimony, including but not limited to blood tests, urine tests, physical or photo lineups, breath tests, hair samples, voice prints, handwriting exams, photos or videos, phone records, financial statements, or other records related to an investigation.

### ***Notice of Complaint***

Prior to a formal interview the accused member will be provided a *Notice of Complaint* by the investigator. The member will receive a copy of the memorandum after signing. The memorandum will contain, but is not limited to, unless it is a confidential investigation, the following information:

- Name of complainant (may be redacted based on the circumstances).
- The date of the alleged incident(s).
- The possible policy violation(s).
- Any related report numbers or summonses.
- A brief summary of the allegation.

### ***Notification of Findings***

Following the review and approval of a completed investigation by the accused member's captain or functional equivalent and the Professional Standards Chief Deputy, the member will be given formal notification of the outcome of the investigation through the issuance of a *Notice of Findings* memorandum to the member by the assigned investigator or Professional Standards Chief Deputy. This should be done as soon after the completion of the investigation as is reasonably possible. The member will receive a copy of the memorandum after signing.

### ***Pay Status Freeze and/or Reduction of Pay***

A division captain or functional equivalent may recommend that a member be ineligible for an increase in pay or receive a reduction of a merit increase in pay. This is applicable to Internal Affairs investigations.

### ***PCR Investigations***

Complaints including, but not limited to: Rudeness, disrespect, favoritism, procedural violations specifically related to the member's duty assignment, arrest procedures, traffic stops, supervisory issues such as tardiness, procedural errors, traffic accidents, failure to show up for court, negligent damage or loss of county property, and sick time abuse. Complaints of this nature will normally only be accepted for up to six months after the date of occurrence. <52.2.1a><52.2.1b> <COM 1.4.1a>

### ***Performance History***

The member's performance evaluations, training files, commendation files, personnel comment report, supervisor's notes, any internal inspection investigations, use of force, and accident review history.

### ***Preponderance of the Evidence***

That, taken as a whole, the available testimony and physical evidence in a case is more persuasive on one side of the question than on the other; that amount of evidence sufficient to make a contested fact more likely true than not.

### ***Personnel Comment Reports (PCRs)***

A report that is completed upon the receipt of a complaint, a complimentary comment or commendation, or an officer motor vehicle crash. Each of the three circumstances utilize

a separate PCR form specific to the type of incident. As an inquiry, this report initiates a preliminary investigation and may represent the complete investigation. A commendation PCR report should be used as an Awards Committee nomination.

### ***Pre-Disciplinary Hearing***

A meeting between the member and the member's supervisor to discuss issues of an investigation where the discipline may exceed a letter of reprimand.

### ***Preliminary Investigation***

The initial gathering of memos, reports and other evidence used to establish the validity of the complaint and identify the investigating authority.

### ***Probation***

Probation or a work improvement plan may be imposed by a chief deputy or a division captain or functional equivalent. Circumstances that justify placing or extending probation of a member may include, but are not limited to:

- The member willfully or intentionally violated policy and procedure.
- The member's performance included gross or wanton negligence.
- The member repeatedly violated policy and procedure.
- The member's performance is unsatisfactory.

### ***Remedial Training*** <26.1.4a> <COM 3.6.5a>

A form of corrective action intended to correct or improve performance. An immediate supervisor, the Training Unit, Internal Affairs commander, a captain or functional equivalent or their designee, may recommend remedial training. The member's chief deputy may approve the remedial training. This training will be used to correct a specific deficiency in a member's performance. The member's immediate supervisor will share in the responsibility to help ensure that the remedial training is completed by the mandatory completion date and shall evaluate the member's progress after the training is completed. Circumstances that may be considered in determining if a member should be sent to remedial training include, but are not limited to:

- The member repeatedly violates the same or similar policy and procedure.
- The member's performance is unsatisfactory.
- Failure to qualify.
- Repeated accidents.

### ***Service Inquiry***

This is an inquiry by a member of the public into procedures used by the Office in the normal course of day-to-day law enforcement activities. These service inquiries may appear at first to be a complaint. It may be determined that policy and procedures were followed by Office member(s) and the citizen is simply unaware the techniques or processes which law enforcement uses. While the Office continues to strive to educate the public on law enforcement procedures, many procedures are not advertised or discussed with the public based on a need to maintain officer safety and security.

***Supervisor / Coaching Notes***

A non-punitive supervisory action intended to modify and improve behavior through educational and/or counseling activities. Also included are other corrective actions reasonably intended to narrowly and specifically address an identified performance-related issue. Supervisor / coaching notes are not punitive discipline. However, as they are performance-related, they may be taken into consideration for transfer, special assignment, or promotional testing processes.

***Supervisory Discussion***

A discussion and concurrence between the member and his supervisor, intended to correct behavior.

***Termination***

Termination of employment with the Sheriff's Office. Only the Sheriff or Undersheriff may terminate a member of the Sheriff's Office. The Sheriff is the only appeal authority for termination by the Undersheriff. <26.1.6> Circumstances that justify termination may include, but are not limited to:

- The member has committed a serious policy and procedure violation.
- The member repeatedly violated policy and procedure.
- The member fails to correct unsatisfactory performance.
- At-Will Termination (no appeal authorized).

Employment with the county and the Sheriff's Office is at will.

***Work Performance Plan***

A written plan of action intended to address and correct a specific performance issue. The purpose, expectations, and process to be taken to achieve the expected outcome will be detailed in the plan, as will the possible consequences for failure to achieve the plan's goals. Both the effected member and the issuing supervisor will acknowledge their acceptance of the plan in writing. The supervisor and the employee will, at a minimum, meet on a weekly basis, and the employee's progress (or lack thereof) will be discussed and documented. Reasonable requests for assistance and suggestions from the employee designed to positively impact their plan's goal will be accommodated by the supervisor. Under normal circumstances, work performance plans are designed to be completed within a 60 to 90 day time period. <26.1.4b>

By Order of the Sheriff