

**TYLER POLICE DEPARTMENT
GENERAL ORDER**

DISCIPLINE

03.500

REVISED 01/12/10

EFFECTIVE 12/13/93

03.501 PURPOSE FOR DISCIPLINARY SYSTEM

- A. The disciplinary system of the Tyler Police Department establishes a set of rules and enforcement processes to ensure that uniform disciplinary procedures are accorded to all members of the Department. Disciplinary proceedings and procedures established herein are guidelines for both employer and employee establishing responsibilities of each to ensure that employer and employee follow a standardized format.
- B. The organization acknowledges the need for authority and commensurate responsibility. Authority permits the imposition of sanction in enforcing rules and procedures that the organization must impose upon itself. The Administration's responsibility is to ensure that fair, impartial, and judicious enforcement of these rules is consistent with the purpose for which they are established.

03.502 PHILOSOPHY OF ORGANIZATIONAL DISCIPLINE

- A. Each member of the organization is entitled to human dignity and self-respect. Each also acknowledges the need for discipline. Self-discipline is the most advantageous, but knowledge of the rules is imperative to produce an organizational ethic that each member follows as a code of conduct.
- B. Support of the disciplinary system is a responsibility shared by every member. The particular responsibility of supervision and management is to motivate and counsel members toward self-discipline. When modification counseling and the imposition of sanctions have occurred and personal behavior or performance has not been properly altered, or the transgression is of serious dimensions, separation from the organization may follow. In all other respects, the first consideration of discipline is to correct performance or behavior.

03.503 GENERAL RULES

- A. The basic requirement of all employees is to direct their working efforts to support the Department's mission and primary obligations to the community. These obligations are the preservation of public peace, protection of life and property, prevention of crime, detection and arrest of violators of the law and enforcement of the laws of the State of Texas and the Ordinances of the City of Tyler, and the detection and resolution of problems as defined in the appropriate General Order.
- B. Employees of the Department shall become thoroughly familiar with the Department Orders. They shall conform to and shall abide by them.

03.504 FIRST LINE SUPERVISORY AUTHORITY AND RESPONSIBILITIES

All first line supervisors in the Department shall be held accountable for the actions of subordinates. They shall be responsible for:

- 1. Directing and monitoring the performance and conduct of subordinates.
- 2. Assuring adherence to department directives, policies and procedures, and compliance with legal regulations by subordinates.
- 3. Counseling and coaching of subordinates in an effort to maintain the efficiency of the Department.

4. Reception of complaints concerning the actions of personnel, including the investigation of minor infractions by employees under their supervision, and reporting the findings to the Integrity Unit Officer through the chain of command.
5. Invoking the disciplinary process, to include:
 - a. Counseling, reassignment within the unit, or recommendation for retraining in a particular job skill in an effort to improve the performance of the employee.
 - b. Oral reprimand for minor violations. Minor violations are those violations which may not be cause for suspensions or removal, but which may negatively affect the employee's performance evaluation.
 - c. Recommendation of written reprimand, suspension, or removal of personnel whose performance is substandard or who, by the nature of their conduct, are subject to suspension or removal.
 - d. Relieving any employee of duty when the employee reports for duty in a condition that would be considered unfit for duty. When this occurs, the employee is instructed to report back to the Division Commander at a specified time and date.
6. Conducting performance evaluations of employees.
7. Delivery of roll call training.
8. Conducting line inspections.
9. Reporting serious violations to superiors.
10. Positive discipline and recommendations for Departmental Awards and Commendations.

03.505 COMMAND OFFICER'S RESPONSIBILITY

Command level officers are responsible for the overall direction and control of their respective Divisions or Units. They shall be responsible for seeing that subordinate supervisors carry out directives in directing personnel toward the accomplishment of Department goals by:

1. Monitoring performance evaluations by first line supervisors.
2. Conducting line inspections.
3. Conducting preliminary investigations of complaints that involve serious infractions by department personnel and reporting such incidents to the Integrity Unit investigator through the chain of command.
4. Invoking the disciplinary procedure including:
 - a. Oral reprimand of subordinate supervisors.
 - b. Recommendations of written reprimands.
 - c. Recommendation of suspension or termination for serious violations justifying such action.
5. Providing positive discipline and recommendation for Departmental Awards and Commendations.

03.506 CHIEF OF POLICE RESPONSIBILITIES

The Chief of Police is responsible for the establishment of departmental goals and objectives and the overall direction and control of the various components of the Department. The responsibilities of the Chief of Police in maintaining discipline within the department are:

1. To evaluate the performance of Division Commanders relative to their effectiveness and efficiency in carrying out departmental objectives.
2. To assign cases to the Integrity Unit in accordance with Integrity General Order 03.400.
3. To assign and reassign personnel.
4. To review and recommend written reprimand.

5. To give oral reprimands to staff personnel.
6. To suspend or relieve personnel from duty.
7. To provide positive recognition and present Departmental Awards and Commendations.

03.507 CHAIN OF COMMAND REVIEW

- A. All employees, except the Chief of Police, accused of misconduct are subject to investigation and having charges brought before their Chain of Command for review.
- B. Occurrence of minor misconduct or substandard performance may, at the recommendation of the supervisor and concurrence of the Division Commander, be corrected at the Divisional Level.
- C. Chain of Command

The precedence of rank, in descending order is:

1. Chief of Police
2. Assistant Chief
3. Lieutenant
4. Sergeant / Civilian Supervisor
5. Officer/Employee

- D. Civilian employees who are assigned to supervisory positions will exercise the same authority and responsibility over their work area as that of a sworn supervisor in the same capacity.
- E. The employee's chain of command will review and note any policy violations. If policy violations are noted, corrective/disciplinary action should then be recommended to the Chief of Police for consideration.
 1. Each allegation of misconduct shall include as a minimum at least one of the following:
 - a. Any proper conduct done by the employee regarding the allegation.
 - b. All improper conduct of the employee regarding the allegation.
 - c. Whether there is sufficient/insufficient evidence or proof to confirm or to refute the allegation.
 - d. Whether the allegation is founded/unfounded.
- F. The chain of command will put their recommendations in writing starting with the lowest level. All recommendations should be based on fact, and have a reasonable explanation for the opinion rendered.
- G. If historical information is required in order for a supervisor to make a recommendation, the request will be directed to the Integrity Unit through the chain of command. (Additional witness statements, etc.)
- H. If the Chief of Police has decided on an action greater than a written reprimand, the Chief of Police will:
 1. Provide a copy of the chain of command recommendations to the employee.
 2. Establish a time and date for a hearing with the Chief. The employee will be given an appropriate amount of time to review the reports and recommendations before the hearing date.
 3. The employee will present any information or mitigating circumstances to the Chief as to why the Chief should not follow the chain of command recommendations. The employee

- will be allowed a non-participating representative if desired.
- 4. The Chief will determine who may also be present at the hearing.
- 5. After meeting and reviewing the incident with the employee, the Chief will inform the employee of the corrective/discipline action to be taken.
- 6. The Chief may set an additional meeting with the employee. This will be the employee's opportunity to present any additional information to the Chief. The employee will then be provided with the appropriate paper work for the action to be taken.

03.508 MITIGATING/AGGRAVATING CIRCUMSTANCES

- A. When more than one section of this code is violated or there are multiple policy infractions, the violator may be charged with the greater offense and the other violations may be cited as aggravating circumstances in determining the discipline.
- B. Supervisors, command officers, or the accused employee may present documented evidence of extenuating, mitigating, or aggravating circumstances that give sufficient reason for a lesser or more severe penalty than provided for in this code. Mitigating or extenuating circumstances presented by the accused must be verified independently before such circumstances can be taken into account.

03.509 PUNITIVE ACTIONS

Punitive actions may vary depending on the severity and/or frequency of a violation of Department policy. The following measures may be used for disciplinary purposes:

- 1. Oral Reprimand
 - a. Summary punishment provides immediate disciplinary action against employees who fail to conform to certain departmental standards of conduct and appearance. This does not require a full investigation. Summary punishment may be imposed by the employee's chain of command.

Oral reprimands shall be documented by the supervisor on the proper form. The original form is routed to the Integrity Unit and a copy is maintained until the next scheduled evaluation. Each supervisor should incorporate any disciplinary information when writing evaluations but actual documents such as summary violations are not to be attached to the evaluation form.
 - b. When a greater penalty is justified either because of the circumstances or the offender's past record, the procedures outlined in this section will be followed.
 - c. Action under this section will not bar a recommendation for more severe penalty by higher authority when it is felt summary punishment is being used to cover a transgression warranting a more severe penalty.
- 2. Written Reprimand
 - a. When the recommended disciplinary action is a written reprimand, the employee's Division Commander, or in the Division Commander's absence the Shift or Unit Commander, will have a letter of reprimand prepared. The letter will be reviewed and approved by the Chief of Police. It will be addressed to the employee and contain a brief description of the incident involving the employee and the specific policy and/or procedure violated.
 - b. Written reprimands issued to any employee will close with the following statement:

"A copy of this reprimand will be placed in your Integrity Unit file. Any future violation by you of the Code of Conduct, City Personnel Rules or departmental policies and/or procedures issued by the Chief of Police will result in the appropriate penalty for such violation and may result in more severe disciplinary action including dismissal from service."

- c. Upon receiving a written reprimand, the employee will acknowledge receipt by signing the original. Copies will be forwarded to the Integrity Unit and the employee's immediate Supervisor for placement in the employee's evaluation file. The copy will then be attached to the completed evaluation form and forwarded through the chain of command. Prior to submitting the evaluation to Personnel, the form will be removed from the evaluation form and shredded. The original of the letter will be given to the employee.

The employee will have 15 working days after the date of receipt of the letter to file a written response to the letter.

03.510 DISCHARGE AND/OR SUSPENSION

- A. The Chief of Police may discharge or suspend, for discipline, civilian employees in accordance with the City of Tyler Personnel Policies and Procedures.
- B. The Chief of Police may discharge, demote, or temporarily suspend any officer in accordance with Local Government Code, Chapter 143.
- C. Probationary employees may be discharged by the Chief of Police in accordance with the City of Tyler Personnel Policies and Procedures and/or Local Government Code, Chapter 143.
- D. Disciplinary actions covered in A., B., and C. above will normally be reviewed by the City of Tyler Legal Department prior to such action being taken.
- E. In the event a disciplinary action results in termination, the affected employee will be advised in writing by the Department of the following:
 - 1. The reason for the dismissal.
 - 2. The effective date of the dismissal.
 - 3. The status of fringe and retirement benefits after dismissal.
 - 4. A statement of the content of the employee's employment record regarding the dismissal.
 - 5. Any appeal rights.
- F. It may also become necessary to remove an employee from duty immediately for emergency reasons. A first line supervisor, or higher authority, may relieve an employee from duty when it is in the best interest of the Department, when the safety of the employee is involved, or the safety of the public is in question.

The relief from duty will remain in effect until 0800 hours on the next business day, unless otherwise directed by the Division Commander, or in the Division Commander's absence the appropriate Shift or Unit Commander. At that time, the relieved employee and the Supervisor affecting the relief will report to the employee's Division Commander. The Division Commander will brief the Chief of Police.

03.511 CONDUCT OF RELIEVED OR SUSPENDED EMPLOYEES

- A. An employee relieved or suspended from duty shall have no official police authority, nor shall the

employee engage in any law enforcement functions.

- B. An employee relieved or suspended from duty shall be liable for any violations of this manual.
- C. An employee relieved or suspended from duty shall not be permitted to use or wear any departmental clothing, equipment, or other issued items.

03.512 SURRENDER OF DEPARTMENT PROPERTY

- A. Except as otherwise directed by the Chief of Police, a member relieved from duty shall immediately surrender the police badge, identification card, and other issued equipment as ordered.
- B. Any member indefinitely suspended by the Chief of Police shall be required to surrender to the appropriate Division Commander or other designated employee all city property which has been issued to the suspended employee or is in the employee's possession or control.

03.513 REMEDIAL TRAINING

- A. It shall be the policy of the Tyler Police Department that remedial training shall be used as a disciplinary procedure when it is deemed by an employee's supervisor that the employee has violated a general order or procedure and that further training is required to enable the employee to meet departmental standards in the performance of the employee's duties. Remedial training shall in no way act to prevent the use of other disciplinary procedures, but may be in addition to any other action.
- B. When it is deemed that the actions of an employee necessitate further training, the supervisor recommending the training shall notify the Division Commander through channels in the form of an inter-office memorandum and shall specify the nature of the violation and the name of the employee involved. The request shall be forwarded to the Career Development Coordinator. A determination shall be made by the Division Commander and the Career Development Coordinator as to the content and duration of the remedial training. The employee shall be notified in writing, through the chain of command of the dates and times when the employee shall report for the training.
- C. Upon completion of the training period, the Career Development Coordinator shall inform the employee's Division Commander that the employee has or has not successfully completed the required training. In the event that an employee fails to successfully complete the remedial training, the reasons therefore shall be clearly stated and a recommendation as to whether or not further remedial training is indicated.
- D. The employee's Division Commander shall, upon receipt of notification that an employee has successfully completed remedial training, return the employee to regular duty. In the event that an employee has failed to successfully complete remedial training, their Division Commander shall either recommend further remedial training or will institute disciplinary proceedings.
- E. Remedial training will be aimed at enhancing the skills, knowledge and abilities of the employee, and is designed to prevent recurrence of the problems. Remedial training may include, but is not limited to:
 - 1. Compulsory attendance at specified training designed to correct a particular problem. i.e. Defensive Driving School, Investigation School, etc.
 - 2. Reassignment to a Field Training Officer.

- F. Repeated violations of policy that led to the remedial training may be considered aggravating circumstances in future disciplinary action.
- G. All remedial training will be documented on the employee's training record.

03.514 COUNSELING AS A FUNCTION OF DISCIPLINE

- A. Counseling as a component of the Department's disciplinary system may be employed by itself or in conjunction with one or more of the other components of the disciplinary system.
- B. The following criteria for using counseling as a function of discipline must be satisfied:
 - 1. There must exist reasonable belief that the employee has an existing problem or is experiencing difficulty understanding, adjusting to or internalizing matters which are:
 - a. Job related (pertaining to assigned tasks).
 - b. Personnel policies (pertaining to Department policies and/or City of Tyler Policies).
 - c. Interpersonal (involving relationships with co-workers).
 - d. Personal (matters which are largely personal but which are affecting the employee's work performance).
 - 2. Evidence must be present indicating that the employee's problem is having a deteriorating effect on the employee's work performance.
 - 3. There must be reason to believe that counseling may assist the employee in a supportive way or otherwise have a positive impact on the employee's work performance.
- C. The following procedures are established for using counseling as a function of discipline:
 - 1. The employee or the employee's immediate supervisor may initiate the counseling process.
 - 2. The initial counseling effort shall be intended to find a remedy, or if a remedy cannot be found, to route the counseling process to one of the following as appropriate:
 - a. Division or Unit Commander
 - b. Immediate Supervisor.
 - c. Outside counseling professional.
 - 3. The purpose and progress of the counseling experience shall be recorded and maintained by the counselor.

03.515 DEMOTIONS

The Chief may use a demotion in rank as a form of disciplinary action against an employee. City of Tyler Personnel Policy or Local Government Code, Chapter 143 would regulate any such demotion.

03.516 SPECIAL PROCEDURES

- A. When an employee of any rank or status is apprehended by a member of this Department while committing a criminal act, the employee will be taken before the employee's Division Commander and the Chief of Police will be immediately notified.
- B. No member will be disciplined for failing or refusing to pay an unjust or justifiably disputed debt or usurious interest; a deficiency claim for property repossessed by a vendor unless such

deficiency has been entered as a court judgement after an opportunity was provided for the debtor to appear and contest the claim; or a debt barred by discharge in bankruptcy or by the statute of limitations.

- C. An employee may be disciplined for failure to pay just debts.
- D. No employee will be forced by the Department to enter into an arrangement with one creditor that would make it impossible for them to pay their other creditors a fair and proportionate amount or to reasonably provide their family with the necessities of life.

03.517 SPECIAL EXAMINATIONS

An accused employee may submit a written request for a blood or polygraph test if the employee believes such would be beneficial to their defense. The department may require such tests of an accused employee. The results of such tests would be limited to administrative use except as provided by law.

03.518 APPEAL PROCEDURE

- A. Sworn employees who have not completed their probationary period may only appeal a disciplinary action through the Chief of Police.
- B. Sworn employees who have completed their probationary period may appeal disciplinary action taken against them as described in the applicable sections of Local Government Code Chapter 143.
- C. Non-sworn employees may appeal disciplinary action taken against them as authorized by the Chief of Police pursuant to General Order 03.700.

03.519 POSITIVE ACTIONS

Positive, as well as negative, actions may be employed to maintain discipline within the Department. Positive actions include but are not limited to:

- 1. Remedial training to enhance the employees' job knowledge or skills.
- 2. Letters of commendation.
- 3. Recommendation for departmental awards.
- 4. Reassignment to a desired area of specialization or to a specified shift.

03.520 MAINTENANCE OF RECORDS

- A. Records of punitive actions that involve suspensions or demotions shall be maintained in the employee's City Personnel File all citizen complaints will be retained for a minimum of two years.
- B. Incidents that are investigated and are unfounded, not sustained, exonerated, or an administrative inquiry will not become a part of the employee's City Personnel file.
- C. Records of positive actions given in accordance with General Order 03.519 shall be retained in the employee's City Personnel file.
- D. Those records that are to become a part of the employee's Personnel File shall be delivered to the Personnel Director's office by the Chief's Secretary or designate.

Approved: 01/12/10

Angie Swindle