

# St. Joseph, Missouri Police Department



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SUBJECT: Disciplinary Action		
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## I. Policy

The St. Joseph Police Department has adopted a system of disciplinary action as a means for educating or counseling members about their performance and professional responsibilities. It also aids in correcting member behavior. Disciplinary action will be thoroughly documented, fairly and impartially administered, and will fit the violation. Members will be allowed a reasonable time (under most circumstances, at least 30 days) to demonstrate corrective action between imposition of progressive disciplinary measures. **(See also City Personnel Code Section # 11)**

## II. Definitions

(1) "Administering authority", any individual or body authorized by a law enforcement agency to hear and make final decisions regarding appeals of disciplinary actions issued by such agency;

(2) "Color of law", any act by a law enforcement officer, whether on duty or off duty, that is performed in furtherance of his or her sworn duty to enforce laws and to protect and serve the public;

(3) "Economic loss", any economic loss including, but not limited to, loss of overtime accrual, overtime income, sick time accrual, sick time, secondary employment income, holiday pay, and vacation pay;

(4) "Good cause", sufficient evidence or facts that would support a party's request for extensions of time or any other requests seeking accommodations outside the scope of the rules set out herein;

(5) "Law enforcement officer", any commissioned peace officer with the power to arrest for a violation of the criminal code who is employed by any unit of the state or any county, charter

county, city, charter city, municipality, district, college, university, or any other political subdivision or is employed by the board of police commissioners as defined in chapter 84. Law enforcement officer shall not include any officer who is the highest ranking officer in the law enforcement agency.

### **III. Procedure**

#### **A. The Following Violations are Cause for Disciplinary Action:**

1. Violations of Law;
2. Violations of Supervisory Orders (verbal or written); and
3. Violations of Department Written Directives.

#### **B. Responsibility for Initiating Disciplinary Action:**

1. Any supervisor who becomes aware of a violation is responsible for taking appropriate disciplinary action.
2. All supervisors have the authority to discipline either verbally or in writing. Supervisors have the authority to immediately remove from duty with pay, any subordinate who commits a violation serious enough to justify immediate suspension. A subordinate who is physically or emotionally unable to discharge his/her duties may also be removed immediately from duty with pay. Supervisors who must perform this action will immediately ensure that their superior officers are notified, especially the Chief of Police. The Chief of Police shall exercise his/her discretion with regard to how long the suspension with pay will be imposed, pending further investigation and/or disciplinary action.
3. Only the Chief of Police will have the authority to suspend without pay, demote, involuntarily transfer, or terminate employment of a member.
4. The Chief of Police shall make all final departmental determinations regarding disciplinary action. The Chief of Police may increase, decrease, or set aside recommended disciplinary action. This will be based on a review of the circumstances surrounding the incident, records and reports, and the recommendation of the supervisors involved.
5. The Chief of Police may not increase the level of disciplinary action after an original action has already been imposed.

#### **C. Disciplinary Investigations:**

1. In-depth investigations are not normally necessary when the violation is clear, minor in nature, and undisputed. Supervisors should not delay the initiation of disciplinary action in such circumstances by unnecessary investigation.
2. Whenever a supervisor believes that an in-depth investigation is necessary to determine if a serious violation has occurred, he/she shall confer with his/her Commanding Officer and/or Division Commander to determine the scope of any such investigation. If it is believed that an Internal Affairs Investigation is warranted, the Division Commander will notify the Chief of Police.
3. An investigation by the Internal Affairs Officer may be initiated at the direction of the Chief of Police, following the guidelines set forth in the Department's General Order governing "Internal Affairs Investigations".

4. If at any time alleged misconduct involves an employee-to-employee complaint of sexual harassment or discrimination, investigative responsibility shall be transferred to the Human Resources Department.

5. Whenever a law enforcement officer is under administrative investigation or is subjected to administrative questioning that the officer reasonably believes could lead to disciplinary action, demotion, dismissal, transfer, or placement on a status that could lead to economic loss, the investigation or questioning shall be conducted under the following conditions:

1. The law enforcement officer who is the subject of the investigation shall be informed, in writing, of the existence and nature of the alleged violation and the individuals who will be conducting the investigation. Notice shall be provided to the officer along with a copy of the complaint at least twenty-four hours prior to any interrogation or interview of the officer;

2. Any person, including members of the same agency or department as the officer under investigation, filing a complaint against a law enforcement officer shall have the complaint supported by a written statement outlining the complaint that includes the personal identifying information of the person filing the complaint. All personal identifying information shall be held confidential by the investigating agency;

3. When a law enforcement officer is questioned or interviewed regarding matters pertaining to his or her law enforcement duties or actions taken within the scope of his or her employment, such questioning shall be conducted for a reasonable length of time and only while the officer is on duty unless reasonable circumstances exist that necessitate questioning the officer while he or she is off duty;

4. Any interviews or questioning shall be conducted at a secure location at the agency that is conducting the investigation or at the place where the officer reports to work, unless the officer consents to another location;

5. Law enforcement officers shall be questioned by up to two investigators and shall be informed of the name, rank, and command of the investigator or investigators conducting the investigation; except that, separate investigators shall be assigned to investigate alleged department policy violations and alleged criminal violations;

6. Interview sessions shall be for a reasonable period of time. There shall be times provided for the officer to allow for such personal necessities and rest periods as are reasonably necessary;

7. Prior to an interview session, the investigator or investigators conducting the investigation shall advise the law enforcement officer of the rule set out in *Garrity v. New Jersey*, 385 U.S. 493 (1967), specifically that the law enforcement officer is being ordered to answer questions under threat of disciplinary action and that the officer's answers to the questions will not be used against the officer in criminal proceedings;

**D. Levels of Disciplinary Action- In order of Severity:**

1. **Training and Counseling:** Notification, education, and advice to the member in situations where the violation was very minor. Training and Counseling is appropriate when the conduct was unintentional, the result of a lack of knowledge, or involved slight negligence.
2. **Verbal warning:** An official verbal notice to the member when the violation was minor in nature, but was intentional or involved a greater degree of negligence.
3. **Written warning:** An official written notice to the member when the violation was serious and intentional, or involved substantial negligence. Section 11.5 of the City Personnel Code requires prior coordination/concurrence from the Director of Human Resources and the City Attorney before issuing a written warning.
4. **Suspension:** The enforced loss of duty hours when the violation was severe and intentional, or involved gross negligence. Section 11.5 of the City Personnel Code requires prior coordination/concurrence from the Human Resources Director and the City Attorney before administering a suspension without pay.
  - a. In lieu of actually suspending your employment, you may elect to take a deduction of vacation hours equivalent to the duration of the suspension, provided you have sufficient accrued vacation time available. Notwithstanding your possible election to accept a deduction in vacation hours, this disciplinary action will be reflected in your employment records as a suspension without pay. You may elect to take the deduction in vacation hours in lieu of actual suspension by notifying the Chief of Police or his/her designate of your election prior to the dates of your scheduled suspension.
5. **Demotion:** A for cause reduction in rank and pay due to employee misconduct or violation of policy
6. **Termination:** Termination of employment when the violation was so grave that continued employment would affect the operational effectiveness of the Department. Section 11.5 of the City Personnel Code requires prior coordination/concurrence from the Human Resources Director and the City Attorney before terminating a Dept. member.

**E. Determining the Level of Disciplinary Action:**

1. The following factors will be considered in determining the appropriate level of disciplinary action for any given violation:
  - a. Severity of the violation itself;
  - b. The member's general past performance and work history; and
  - c. Action taken in similar circumstances for the same violation.
2. The Department will employ progressive discipline, but reserves the option of selecting a more serious level of discipline, determined by the seriousness of the infraction. Repeated similar violations will result in an increasing level of disciplinary action, even when the individual violation would not ordinarily warrant the higher level of discipline.
3. The following extenuating and aggravating circumstances will be considered in a disciplinary action:

- a. Whether or not the violation was intentional or inadvertent;
- b. The actual or reasonably foreseeable consequences of the violation; and
- c. The prevailing conditions and circumstances at the time of the violation.

**F. Documentation and Reports:**

1. All disciplinary action will be thoroughly documented by supervisors. Any documentation involving Training and Counseling of a non-disciplinary nature is discretionary. (Exception will be FTO information on trainees). Any documentation whether disciplinary or discretionary in nature will be done using IPro/BlueTeam.
2. Supervisors will confer with their superior officers before issuing a Written Warning to a subordinate. Notice of the Written Warning will be sent to a Division Commander, and the Chief of Police via IPro/BlueTeam. A copy of the Written Warning will be presented to the subordinate involved, after review and concurrence by the Chief of Police, Human Resources Director, and the City Attorney.
3. Maintenance of Disciplinary Records will be as follows:
  - a. Training, Counseling, and Verbal Warning documentation will remain in a member's IPro/BlueTeam file indefinitely but shall only be referenced for one year for evaluation purposes.
  - b. Any discipline above the level of Verbal Warning will remain in an active member's IPro/BlueTeam file indefinitely. A copy of all discipline above a Verbal Warning will be maintained in the member's IPro/BlueTeam file.
  - c. The Department shall follow all applicable City Personnel Codes and legal provisions relating to the maintenance and purging of disciplinary reports and records.
  - d. Purged reports will be destroyed in accordance with Revised Missouri Statute 109.200 and 109.310.
  - e. A copy of any disciplinary action involving a Written Warning, suspension, termination, demotion, or involuntary transfer will be sent to the Director of Human Resources for filing in the member's official City personnel files.
4. Investigative files relating to employee discipline are closed records, and a Police Dept. is permitted to close its meetings with respect to employee discipline. However, a Grand Jury may have access to these files (See Chapter 610, RSMO).
5. If a suspension without pay or demotion affects a member's future retirement date and/or fringe benefits, the Director of Human Resources may issue the member any new changes in the status of his/her benefits upon request (such as an extension in the date of retirement).

**G. Administrative Hearings:**

1. When suspension or termination is contemplated as a possible outcome of disciplinary action, the Chief of Police will schedule an Administrative Hearing. The purpose of this hearing is for the member to have an opportunity to be advised of the facts and circumstances surrounding the proposed action,

and an opportunity to contest any information, present any rebuttal, or make any remarks for consideration prior to the disciplinary action.

2. The supervisor who initiated the action and other supervisors in the member's chain of command may be required to attend.
3. The member shall receive at least Seven days' notice of the hearing date and time, or submit a written request to waive the hearing. Approval of any request to waive a hearing rests with the Chief of Police.
4. The member may be represented by Legal Counsel or another person of their choice.
5. The Department may be represented by the Chief of Police or any other person he/she may designate, including its own Legal Counsel.
6. Following the presentation and discussion, the Chief of Police will confer with the Human Resources Director and/or City Manager within 5 days, and will then make a final determination on the proposed disciplinary action. If a decision should be termination, the Chief of Police will notify the City Manager in writing of his/her intent to dismiss, providing the reasons for the dismissal. This "intent to dismiss" notice will be filed in the Office of Human Resources. The Chief of Police will ensure that notice to dismiss is provided to the member within 5 days, stating the specifics for dismissal and effective date. The notice should be delivered to the member in person, with a signed acknowledgement of receipt from the member. If the member refuses to sign, the receipt should be so noted. The date of dismissal shall be at least one calendar week after the member has been given the opportunity of an Administrative Hearing.
7. If a member is demoted or suspended without pay, he/she shall be notified immediately in writing, setting forth specific reasons for such action.
8. If the disciplinary action resulted from an outside complaint, the complainant will be notified of the discipline within a reasonable amount of time. Information provided to the complainant will be in accordance with the City Personnel Code.
9. Any entry level probationary officer may be separated without cause and right of an Administrative Hearing at any time during his/her probationary period.
10. Dismissed employees shall be provided with status information reference fringe and retirement benefits after dismissal on the exit interview from Human Resources.

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Chris Connally, Chief of Police

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Date