

TITLE: DISCIPLINARY PROCEDURES

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PURPOSE

The Santa Fe Police Department, in conjunction with the City of Santa Fe, has adopted a disciplinary system designed to achieve the following goals:

- Provide training as a means of improving productivity;
- Offer counseling in an effort to assist employees with matters which may be affecting their performance;
- Assure consistency when sanctions must be imposed;
- To standardize the disciplinary process.

DISCUSSION

Discipline is often thought of in a limited sense as meaning punishment or penalty, a negative connotation. However, discipline also means instructing, teaching and training. Its main purposes are to facilitate coordination of effort, develop self-control and character, and foster orderliness and efficiency. One of the primary measures of the level of discipline within a law enforcement agency is the orderliness with which it operates.

Discipline is interdependent on two other states of mind that influence behavior, those of morale and esprit de corps. All are of equal importance and each may flow from the other or each may adversely affect the others. High morale is usually accompanied by a high level of discipline and esprit de corps. Neither a high level of morale nor esprit de corps commonly accompanies a poorly administered disciplinary program. When these three occur together at a favorable level, however, efficiency will follow in direct proportion.

POLICY

It is the policy of the Santa Fe Police Department that discipline shall be characterized as corrective rather than punitive, and that disciplinary action is but one of the elements of an overall program to educate Department employees and promote proper conduct.

PROCEDURE

All disciplinary procedures shall conform with the current union contract and Personnel Rules and Regulations. Any conflict between this policy and the applicable union contracts or personnel rules and regulations will be resolved by complying with the applicable contract or rules and regulations.

ADMINISTRATION RESPONSIBILITY

27.1.01 The Chief of Police and Division/Section Commanders shall review all recommendations for disciplinary action which are forwarded through the chain of command. The review includes an assessment of the alleged violations, the supervisors' recommendations, any mitigating or aggravating circumstances that exist, and a determination that a preponderance of evidence exists to believe that the alleged violation occurred.

27.1.02 The City Manager retains the final authority in regards to any recommendation for discipline. The Chief's Recommendation will be forwarded to the Human Resources Division.

27.1.03 When circumstances permit, supervisors are encouraged to pursue a philosophy of "progressive discipline" by administering gradually increasing disciplinary actions for each successive instance of employee misconduct. Each level of progressive discipline shall be fully documented. A repeat of the same offense or commission of another serious offense indicates that more severe disciplinary measures should be administered. It is further provided that certain offenses are of such serious nature that dismissal upon first offense is applicable.

27.1.04 All disciplinary action shall require approval of the City Manager before implementation. Whenever such approval is not practical because of urgent circumstances, necessary action may be taken

and the situations reviewed with the City Manager as soon as practical.

RESPONSIBILITY OF MANAGEMENT

27.1.05 All supervisors and commanders have the duty to take corrective action or to submit a written report to their Division/Section Commander, whenever they learn through personal observation or through report of any violation of the City of Santa Fe Personnel Rules and Regulations, City of Santa Fe Safety Manual, Police Department Directives, State law or Municipal ordinance by any member of this Department.

A. Failure of a supervisor or commander to immediately take action (as described above) for any violation coming to his/her attention regardless of the supervisor's or affected employee's assignment or rank, is grounds for disciplinary action.

27.1.06 Supervisory and command personnel who receive an allegation of misconduct shall conduct the preliminary investigation and forward the complete report to the appropriate personnel in a timely manner.

27.1.07 Command personnel who receive a completed investigation will forward the report to the Office of the Chief of Police who, at his/her discretion, may forward the report to the Internal Affairs Officer for further investigation.

RESPONSIBILITY OF DEPARTMENT MEMBERS

27.1.08 All personnel shall acquire a working knowledge of the Santa Fe Police Department Directives Manual. Ignorance of any provision of the Directives Manual shall not be considered an excuse or serve as a defense for a violation of these materials.

27.1.09 All personnel are required to immediately report observation of any violations of the Directives Manual or State/Municipal law to their supervisor or commander.

27.1.10 Any member may be required to submit to the following procedures/examinations or tests if ordered in writing, by the Chief of Police, when the

procedures/examinations are specifically directed and narrowly related to a particular internal investigation.

A. A drug test to include, but not limited to, the breath/alcohol testing device, or a blood/fluid test in a licensed medical facility, when it is necessary to determine drug use by an agency employee.

B. Any medical, laboratory and/or polygraph tests that directly relate to proof of allegations against an employee.

C. Any member may be required to be photographed when under internal affairs investigation if identity of an accused is an issue.

D. Any Vehicle Mounted Camera System video tape may be utilized which may directly dispute or prove allegations of misconduct.

E. Any member may be ordered to participate in a line-up as part of an internal affairs investigation if identity of the accused in an issue.

F. Related costs of these examinations and/or procedures will be borne by the agency, unless the member requests the test on his/her own.

PROGRESSIVE DISCIPLINE SYSTEM

27.1.11 TEMPORARY, EMERGENCY AND PROBATIONARY EMPLOYEES

A. City of Santa Fe Personnel Rules and Regulations state that all emergency, temporary and probationary employees may be suspended, demoted, or terminated for any reason the employer deems appropriate, as long as the procedures outlined in City Personnel Rule 7.50 are adhered to.

27.1.12 CLASSIFIED EMPLOYEES

A. Classified employees may be reprimanded, suspended, demoted, or terminated only when there is just cause.

B. Official oral and verbal reprimands must be issued on the Disciplinary/Corrective Action forms designated by the Human Resources Director and placed in the employee's Personnel file.

C. Complaints or disagreements concerning oral and written reprimands may be addressed through the

informal grievance procedure as outlined in the agreement between the City of Santa Fe and the Santa Fe Police Officers Association and/or the City of Santa Fe Personnel Rules and Regulations.

D. The City of Santa Fe Personnel Rules and Regulations lists examples of just cause for suspension, demotion, or termination of classified personnel. Just cause includes, but is not limited to:

1. Violation of or failure to comply with the Federal or State Constitution, Statutes, or City Ordinances;
2. Careless, negligent, or improper use of City property, equipment or funds;
3. Failure to comply with or accept a reasonable proper assignment from an authorized supervisor;
4. Inability to perform job requirements;
5. Disorderly conduct or threats or abuse of others;
6. Chronic tardiness;
7. Use of undue influence to attempt to gain promotion, leave, favorable assignment, or other individual benefit or advantage;
8. Unauthorized leave;
9. Failure to obtain and maintain a current license or certificate as a condition of employment;
10. Intentional falsification or mishandling of City Records;
11. Unauthorized or illegal use, sale, or possession of alcohol or illegal drugs, or being under the influence of such substances while on duty;
12. Harassment or intimidation of any person; or
13. Action which reflects poorly upon the integrity of the City of Santa Fe.

E. The Santa Fe Police Department has assigned appropriate sanctions to specific policy/procedure violations, which are outlined in the Department Directives. Unless there are mitigating or

aggravating circumstances, supervisors or commanders shall follow the documented guidelines for disciplinary/corrective action in these areas.

F. Violations and/or deficiencies not covered by the above listed guidelines are subject to the principle of progressive discipline. Options available to commanders/supervisors include individual action or a combination of actions, as appropriate. The options available include, but are not limited to:

1. Counseling (informal – may or may not be reduced to writing in the form of a memo/counseling form.
2. Assisting the employee in obtaining counseling through self-referral to the Employee Assistance Program (EAP).
3. Training – referral for additional, remedial, or in-service training.

G. Supervisors and Commanders shall provide recommendations for disciplinary action and may impose emergency relief from duty when appropriate.

H. Upon receipt of a formal recommendation for disciplinary action by a commander or supervisor, the Chief of Police may recommend the following discipline, subject to provisions set forth in the City of Santa Fe Personnel Rules and Regulations:

1. Oral/Written reprimands;
2. Suspension without pay and/or reassignment (mandatory transfer);
3. Demotion in rank or grade;
4. Dismissal from the Department;
5. Reimbursement (this is not a progressive step, but is an alternative when an employee acts in an inappropriate manner to the extent that the Department realizes a financial loss.

EXAMPLE – Loss or damage of a Department issued weapon when negligence is ruled to be the cause).

PROCEDURES FOR DISCIPLINARY ACTION

27.1.13 Supervisors/Commanders will identify and charge the employee with the primary sections of the law, or directive that covers the major violation. Lesser violations that are fully included in the primary infraction should not be considered when making a recommendation.

27.1.14 Supervisors/Commanders intending to impose disciplinary action will consult the appropriate directive to ascertain whether or not there are imposed sanctions listed. If sanctions are not listed, the supervisor shall then prepare his/her recommendation in line with the progressive steps listed above. To determine the appropriate discipline, the supervisor will:

- A. Consider the seriousness of the act or omission;
- B. Consider any mitigating or aggravating circumstances that warrant deviation from the progressive steps. In the event these circumstances exist, the commander/supervisor must articulate the reasons for deviation on the Disciplinary form;
- C. Consider the disciplinary record of the individual involved:
 1. Specifically, the Commander/Supervisor will review the employee's disciplinary record for the previous six months to assure that there are no current oral reprimands for the same or similar offense(s).
 2. The Commander/Supervisor must also determine that there have not been written reprimands, suspensions, demotions or reassignment within the preceding twelve (12) months.
 3. Whenever previous disciplinary actions for violations of any law, policy or procedure are still active and a subsequent violation of a law, policy or procedure occurs, the subsequent violations will be sanctioned at the next higher level of discipline.
- D. Consider past practice for similar violations. The Professional Standards Legal Secretary, and the City Attorney can be consulted to research past practice

- E. If multiple violations (other than lesser-included violations) arise from the same incident or investigation, each violation shall be sanctioned separately by applicable discipline categories. Therefore, both reprimands and suspensions, for instance, can be administered for separate violations arising out the same incident;

VERBAL COUNSELING

27.1.15 All supervisors have the discretion to administer verbal counseling for minor infractions. A minor infraction shall mean those violations which would result in a verbal reprimand, or less, for the first violation.

- A. Supervisors will complete the proper Officer Conference Form with all necessary information in the text.

27.1.16 The Supervisor/Commander initiating the action shall meet with the employee and explain the disciplinary process.

- A. When a oral reprimand is recommended, it will be explained that the action taken is intended as a oral reprimand, even though it is documented in written form.
- B. Personnel will be counseled that more severe disciplinary action will be taken for repeated infractions or omissions of the same nature.
- C. The Officer Conference Form shall be maintained by the supervisor/commander for a minimum of three months

LETTER OF COUNSELING

27.1.17 A Letter of Counseling is a corrective action tool that can be used in cases that are more serious than those for which a Verbal Warning would be appropriate, but are less serious than those cases for which a Written Reprimand would be appropriate.

- A. A Letter of Counseling is to be kept in the employee's department file for a minimum of three months.

WRITTEN REPRIMANDS

27.1.18 Supervisors/Commanders will complete the proper Disciplinary/Corrective Action form and shall

meet with the employee to explain the disciplinary process.

27.1.19 The Disciplinary/Corrective Action form will then be routed through the chain of command for signatures, and will then be routed to the office of the Chief of Police. The Chief shall make a final decision regarding recommendation which he/she shall forward to the Human Resources Director. The employee may request a pre-determination hearing for written reprimands.

SUSPENSION, DEMOTION, TERMINATION

27.1.20 The same steps as outlined for Written Reprimands will be followed.

27.1.21 An employee has a right to appeal in these cases, as a property right is effected, as outlined in the Personnel Rules and Regulations regarding disciplinary actions and the appeal process.

A. The appeal process begins when the employee requests a Pre-Determination hearing.

27.1.22 When employee misconduct results in dismissal from the department, the following information shall be made available to the member:

- A.** Reason for dismissal;
- B.** Effective date of dismissal;
- C.** Status of fringe and retirement benefits after the dismissal, will be made available through the City of Santa Fe Personnel office;
- D.** Content of the employee's record of employment relative to the dismissal.

ZERO TOLERANCE

27.1.23 In keeping with the concept that certain offenses are of such a serious nature that dismissal upon the first offense is the only appropriate discipline, the department has deemed that the following offenses will result in a recommendation of termination should a preponderance of evidence show that a violation has occurred:

- Violation of Directive 23.1.20(A)
- An act of domestic violence or abuse which means an assault or battery under any state law or municipal or county ordinance in which

the alleged victim is a household member as defined in the Crimes Against Household Members Act:

- Any sexual offense or an attempted sexual offense as defined under the provision of Section 30-9-10 through 30-9-14.3 and 30-10-3 NMSA 1978;
- An act of Voyeurism ("peeping-tom") as defined by Section 30-9-20 NMSA;
- Stalking as defined by Section 30-3-A-3 and 30-3A-3.1 NMSA 1978;
- Driving under the influence of intoxicating liquor and/or drugs;
- If any officer/employee commits a felony offense.

This list does not preclude the department from recommending termination upon the first offense for any other serious or egregious offense.

PRE-DETERMINATION HEARINGS

27.1.24 When an employee requests a pre-determination hearing, the supervisor/commander shall schedule a hearing with the Chief of Police as soon as possible, and shall maintain possession of the Disciplinary/Corrective Action form until the time of the hearing.

An employee shall be notified in writing at least (48) forty-eight hours prior to the date and time of the pre-determination hearing. The notice shall disclose the proposed disciplinary actions and shall state the time, place and date of the hearing.

27.1.25 The hearing shall be informal and shall be conducted by the Chief of Police or his designee. The employee shall be represented by a person of their choosing.

27.1.26 The purpose of the hearing is to provide the employee with a reasonable opportunity to address the reasons for the proposed disciplinary action.

- A. The hearing may be waived by the employee in which case the disciplinary action is effective immediately.
- B. The Chief of Police, or his/her designee, shall render a final recommendation within (5) five calendar days of the hearing, and forward the recommendation to the City Manager. The City Manager shall render a final decision within fifteen calendar days. Any time prior to the final decision the employee may file a written response.

DISCIPLINARY RECORDS

27.1.27 All disciplinary records shall be maintained in the employee's personnel file (Police Administrative Office). Retention, access, and confidentiality shall be maintained in accordance with the Personnel Rules and Regulations, the Department Directive entitled, "Employee Personnel Files", and any applicable sections of the Records Retention Act. For details refer to the appropriate sections.

- A. The employee may request that documentation of an oral reprimand be removed from his/her file if (6) six months has passed since the last offense.
- B. An employee may request that documentation of a written reprimand be removed from his/her file if (1) one year has passed since the last offense.
- C. The appropriate union contract and personnel rules and regulations shall govern removal of documentation of suspensions, demotion or dismissals
- D. An employee may request documentation of disciplinary action be removed from his/her file as outlined in union contracts and personnel rules and regulations.

MISCELLANEOUS

27.1.28 For disciplinary recommendations that are a result of a sustained internal affairs investigation, the person who was the employee's lieutenant at the time of the violation will be responsible for recommending corrective action. In the event of a sustained violation on a higher ranking officer, the employee's

direct supervisor at the time of the violation is responsible for administering corrective action. The Chief of Police may designate an alternate person to administer corrective action as he/she deems necessary.

27.1.29 Personnel who initiate a complaint against a supervisor shall contact the commander/supervisor of the person the complaint is directed against; a Division/District Commander or the Chief of Police.

27.1.30 All commanders and supervisors are authorized to immediately relieve employees from duty in cases of serious violations of law, policy and/or procedure. Emergency relief from duty should only be used when the commander/supervisor cannot utilize normal channels of discipline and the offense is so severe as to warrant immediate action.

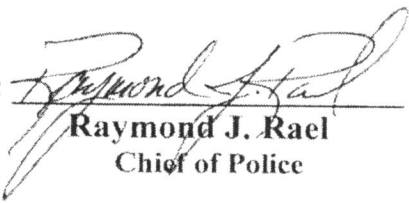
CONDUCT DURING SUSPENSION

27.1.31 During the period of suspension, personnel will not wear any identifiable part of the official uniform.

27.1.32 Upon being placed on suspension, personnel will surrender their badge of office, take home vehicle and all assigned weapons.

27.1.33 Personnel will not act in any official capacity nor represent themselves as Police Officers while on suspension.

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APPROVED: 
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Chief of Police

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