

	TYPE OF DIRECTIVE REPORTING PROCEDURE	NUMBER RP-25-21
	SUBJECT CORRECTIVE/DISCIPLINARY ACTION	EFFECTIVE DATE 06/14/21
	REFERENCE CODE OF CONDUCT, CODE OF VIRGINIA §9.1-500 et seq.	RESCINDS RP-25-18

PURPOSE

To describe procedures for imposing corrective/disciplinary actions and ensuring due process.

POLICY

Discipline is not a negative force, but a positive form of training and an important constructive leadership tool that should not be confused with punishment. The immediate effect of discipline may generate individual consternation; however, when properly applied, it results in an organization that voluntarily conforms to rules and regulations. Any member who violates the oath or trust by committing an offense punishable under the laws or statutes of the United States, the Commonwealth, a local ordinance, or who violates the rules, regulation, policies, or procedures outlined in the Directives Manual or the County’s Policies and Procedures, or who is otherwise unfit to perform their duties as a Police Division member, is subject to disciplinary action. Disciplinary actions involve a broad spectrum of alternatives that range from the issuance of a written reprimand to termination from the Police Division.

The imposition of disciplinary action affecting all members of the Police Division shall be in accordance with Henrico County Policies and Procedures, the Police Division’s Directive Manual, and applicable law. The provisions of this directive will apply to all Police Division employees that have completed their probationary employment period. Those employees that have not completed their probationary status may not be guaranteed full access to the provisions of this directive and may be terminated at any time, with or without cause, and without further recourse. All disciplinary action shall be recommended and imposed in accordance with Code of Conduct, Table of Penalties, and the procedures in this directive.

DEFINITIONS

Coaching – Advice given by a supervisor to a Police Division member for minor performance-related transgressions not reported on a Complaint Form (HCPD-069) but that are documented on a Coaching/Counseling form (HCPD-068).

Corrective Actions – May include coaching/counseling, training, close supervision, a special performance evaluation, action plan, or other managerial prerogatives as described in this directive.

Counseling –Guidance given by a supervisor to a Police Division member for resolution of a complaint or transgression reported on a Complaint Form (HCPD-069). The counseling shall be documented on a Coaching/Counseling form (HCPD-068). Counseling is not considered a disciplinary action, shall not be recorded on a Notification of Charges/Disciplinary Due Process (HCPD-062), and shall not become part of a member’s discipline or Personnel file.

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Demotion – Movement from one job classification to another with a lower grade, approved by the agency head and the Director of Human Resources, or their designees. Demotion may be disciplinary or non-disciplinary and carries with it a reduction in pay. It may be given for an isolated or repeated disciplinary breach or for cumulative disciplinary breaches when a lesser or more stringent action is not appropriate. Members in a career development program may be demoted to a lower level for cause.

Disciplinary Actions – May include a written reprimand, suspension, demotion, or dismissal. Disciplinary actions shall be recorded on a Notification of Charges/Disciplinary Due Process (HCPD-062) and shall become part of a member's discipline or Personnel file.

Dismissal— An involuntary separation of employment, approved by the agency head and the Director of Human Resources, or their designees. It is the most severe form of disciplinary action. Dismissal may be imposed for an isolated or repeated disciplinary breach or for cumulative disciplinary breaches when a less stringent action is not appropriate.

Reckoning Period—The period of time that prior corrective/disciplinary action(s) shall be considered when determining progressive discipline. The reckoning period for an offense shall begin on the date a violation(s) is sustained.

Suspension without pay— Suspension without pay is the removal from job duties without pay for a specific period of time. It may be given for an isolated or repeated disciplinary breach or for cumulative disciplinary breaches when a lesser or more stringent action is not appropriate.

Written reprimand— A reprimand reduced to writing documenting the offense, the date(s) occurred, and the policy(s) violated. A written reprimand may be given for an isolated or repeated disciplinary breach or for cumulative minor disciplinary breaches, or as the minimal corrective action for a more severe breach when, in the judgment of the Disciplinary Review Manager, a lesser or more stringent action is not appropriate.

PROCEDURES

I. GENERAL GUIDELINES

- A. Complaints against, or allegations of misconduct by, a Police Division member shall be received, documented, and investigated in accordance with G-36.
- B. Any complaint sustained by Human Resources/Employee Relations shall be referred for corrective/disciplinary action as set forth in this policy, as applicable.
- C. Sustained violations, after approved by the Chief or his designee, will be submitted to the Disciplinary Review Manager from Internal Affairs.
- D. The following non-disciplinary corrective actions may be used to resolve performance issues and/or certain complaints involving Division members:
 1. Counseling; and/or
 2. Remedial training.
- E. The following disciplinary actions may be imposed upon members of the Police

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Division upon a sustained finding of misconduct:

1. Written reprimand;
 2. Suspension without pay;
 3. Demotion; and/or
 4. Dismissal.
- F. The Disciplinary Review Manager (DRM) shall review and recommend discipline per the Code of Conduct, Table of Penalties. Final authority and responsibility for all disciplinary action rests with the Chief of Police, who may modify a penalty at his sole discretion.
1. The DRM is responsible for recommending and imposing the following disciplinary actions:
 - a. Written reprimand; and,
 - b. Suspension without pay.
 2. The DRM may recommend but may not impose demotion or dismissal of a member. Only the Chief of Police may demote or dismiss a member from employment.

II. PROCEDURES FOR NON-DISCIPLINARY CORRECTIVE ACTIONS

A. Coaching

1. The supervisor documenting the coaching shall discuss the circumstances surrounding the coaching with his immediate supervisor prior to documenting the coaching on an HCPD-068.
 - a. Coachings and any associated training shall be documented on an HCPD-068, with the "Coaching" box marked, and kept in a member specific file at the unit level by his immediate supervisor.
 - b. Supervisor files shall be transferred with the member in the event he gets transferred or promoted.
2. The HCPD-068 shall be electronically attached to the member's performance evaluation. The events documented on the form shall be mentioned/addressed in the body of the performance evaluation. The form(s) shall be destroyed at the end of the evaluation period.
3. Nothing in this directive precludes a Police Division supervisor from using a remedial action (i.e., remedial training or coaching) for matters that have not been documented on a Complaint Form (HCPD-069).

B. Counseling/Remedial Training

1. When counseling or remedial training are determined to be the appropriate

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corrective action for a documented violation, the DRM shall notify the appropriate supervisor and chain-of-command that a counseling and/or remedial training shall be implemented, and the date by which it shall be imposed.

2. Prior to conducting the counseling session, the immediate supervisor shall review the Complaint File.
3. The immediate supervisor shall conduct the counseling session, complete the HCPD-068, making sure the "Counseling" box is marked, and forward the HCPD-068 to the Disciplinary Review Manager within 15 days of receiving the implementation notice. The DRM will then forward the Counseling form to Internal Affairs.
4. If remedial training is prescribed, the specific training or topics to be covered, along with the date and time of the training, shall be conveyed to the member via email by the immediate supervisor, with a copy sent to the Commander, Personnel, and the Commander, Training. The immediate supervisor shall then send an email to the DRM within 15 calendar days of the completion of the training. The DRM shall make notifications to all other appropriate parties as to the completion of the necessary training.
5. The events documented on the HCPD-068 shall be mentioned/addressed in the body of the member's performance evaluation.

III. PROCEDURES FOR DISCIPLINARY ACTION

A. When a matter is assigned to the DRM for disciplinary action, the DRM shall:

1. Provide written notice to the member of the reason for the specific charges, potential for discipline, and the impending pre-disciplinary hearing by completing sections I and II of the Notification of Charges/Disciplinary Due Process (HCPD-062) and providing a copy of the HCPD-062 to the member;
2. Schedule and conduct the pre-disciplinary hearing. The member shall have a minimum of five (5) calendar days to prepare for the pre-disciplinary hearing unless the member waives the five-day period.
 - a. The pre-disciplinary hearing is an opportunity for the affected member to appear before the DRM in cases involving formal discipline to respond to the charges and the potential discipline.
 - b. The affected member can submit statements, other supporting documents, and/or present witnesses in support of mitigating facts or circumstances.
 - c. The DRM and the affected member's Commanding Officer (or designee) will attend the pre-disciplinary hearing.
4. Following the pre-disciplinary hearing, the DRM shall make a final recommendation on the discipline to be imposed in accordance with section III. B.

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below, then prepare and sign section III of the HCPD-062.

Within seven (7) calendar days of the pre-disciplinary hearing, the HCPD-062 with a completed section III must be delivered to the member.

- B. When making a recommendation for disciplinary action, the DRM shall:
1. Review the associated investigation file;
 2. Review all prior corrective/disciplinary actions and complaint history. Corrective action/disciplinary actions within the reckoning periods below shall warrant consideration for progressive discipline in accordance with the Code of Conduct, Table of Penalties:
 - a. Violations of policy relating to gratuities, discrimination, failure to report a weapon discharge, controlled substances, alcohol, response to resistance, search and seizure, or untruthfulness/dishonesty shall have a reckoning period of the member's entire career.
 - b. The reckoning period for all other violations of policy shall be three years.
 2. Consider the following factors:
 - a. The nature and seriousness of the offense and its relation to the member's duties, position, and responsibilities, including whether the offense was intentional, technical, inadvertent, committed maliciously or for gain, or frequently repeated;
 - b. The member's job level and type of employment, including supervisory role, contacts with the public, and prominence of the position;
 - c. The member's past corrective/disciplinary action record;
 - d. The member's past work record, including length of service, dependability, and performance on the job;
 - e. The effect of the offense upon the member's ability to perform at a satisfactory level and its effect upon supervisors' confidence in the member's work ability to perform assigned duties;
 - f. Consistency of the penalty with those imposed on other members for the same or similar offenses;
 - g. Consistency of the penalty with the Code of Conduct, Table of Penalties;
 - h. The notoriety of the offense or its impact upon the reputation of the Police Division;
 - i. The clarity with which the member was on notice of any rules that were

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- violated in committing the offense or had been warned about the conduct in question;
- j. The potential for the member's rehabilitation;
 - k. Mitigating circumstances;
 - l. The adequacy and effectiveness of alternative sanctions to deter such conduct in the future by the member or others; and,
 - m. Any other relevant circumstances or facts that may directly impact the outcome scenarios and/or decision-making abilities of those involved.
- 4. Write an inter-office memorandum supporting a recommendation of discipline. The memorandum shall include the following:
 - a. All sustained complaints and associated resolutions that occurred within the reckoning period;
 - b. The justification for the recommendation and how it is related to the factors in section III. B. 3. above.
 - 5. Submit the inter-office memorandum, the accompanying Notification of Charges/Disciplinary Due Process (HCPD-062), and any supporting memorandums or documentation provided by the member in response to the charges to the Chief of Police outlining the reasons for the proposed recommendation.
 - 6. After the HCPD-062 has been approved and endorsed by the Chief of Police, it will be returned to the DRM to be administered within fourteen calendar days of receiving notice of the approval from the Chief of Police, or within a timeframe otherwise determined by the Chief of Police on a case-by-case basis.

IV. PROCEDURES FOR A DEMOTION OR DISMISSAL

- A. In cases where the recommended discipline is demotion or dismissal, the procedures in this section shall be followed. After the HCPD-062 is reviewed and approved, the DRM shall advise the member of the recommendation and supply the member with the date on which the hearing with the Chief of Police or his designee will occur.
- B. The Chief of Police or designee shall meet with the member to conduct the hearing. After the hearing, the Chief of Police shall make a decision concerning the recommended demotion or dismissal.

V. COMMUNICATION OF DISCIPLINARY ACTION

- A. In accordance with County HR Policies and Procedures, all formal disciplinary actions shall be forwarded to the Employee Relations Manager upon being imposed. In cases of suspensions, demotions, or dismissals, the Director of Human Resources or his designee

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must be notified and provided with the reasons for the proposed discipline prior to implementation.

- B. After the HCPD-062 is approved by the Chief of Police, the DRM shall ensure it is delivered to the subject member. The DRM shall also notify the appropriate supervisor and chain-of-command of the approved disciplinary action.
- C. For all suspensions, the DRM shall coordinate with the member's Commanding Officer to determine the date(s) upon which the suspension will be served. The DRM will then prepare an inter-office memorandum to the Commander, Personnel indicating the date(s) of the suspension. This memorandum shall be completed and delivered to Police Personnel within 15 calendar days of notification of the approved discipline to the member and a copy forwarded to the Commander, Internal Affairs. The date(s) of the suspension must be coordinated with applicable payroll cycles.

When a suspension in excess of one working day is imposed, the member's supervisor shall:

- 1. Notify Technology Support and request the member's computer access be disabled for the period of the suspension;
 - 2. Notify a CASE Unit supervisor and request the member's access to LInX be disabled for the period of the suspension;
 - 3. Notify the Inspections Unit and request the member's access card be disabled for the period of the suspension.
- D. In the event of a demotion or dismissal, the member will receive a written statement including the effective date of the discipline, reasons for the discipline (except in cases of probationary members), information concerning benefits, and other applicable information, such as the member's newly assigned rank, pay grade, and/or step.

VI. TIMELINES

All timelines set forth in this directive are aspirational and may be lengthened with approval by the Chief of Police or his designee.

VII. GRIEVANCE PROCEDURE

- A. Once disciplinary action has been imposed, a member may challenge that discipline through the Henrico County Employee Grievance Procedure.

The Henrico County Employee Grievance Procedure is found on the County's Intranet site in the Henrico County Policies and Procedures (Section 13.10). Questions regarding the Grievance Procedure or its use should be directed to the Employee Relations Manager in the County's Human Resources Department.

- B. Sworn members may elect to challenge certain disciplinary action (i.e., a dismissal, demotion, or suspension for punitive reasons) at a panel hearing as afforded by the Law

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Enforcement Officers Procedural Guarantee Act (Code of Virginia §9.1-500 et seq.). The panel hearing recommendation is not binding on the Chief of Police.

Sworn members may use either the Henrico County Employee Grievance Procedure or the Law Enforcement Officers Procedural Guarantee Act, but not both.

- C. Any supervisor that is notified by a member that they wish to challenge a disciplinary action under the grievance procedure shall immediately notify the Human Resources Employee Relations Manager and Internal Affairs and assist the member as directed.

VIII. EMERGENCY SUSPENSION

- A. An emergency suspension may be imposed by any Division supervisor for one or more serious breaches of the Code of Conduct when the member's continued presence on the job is deemed to be a substantial and immediate threat to the welfare of the Police Division or the public or when the member has refused to obey a direct order issued in conformance with the Police Division's Directives Manual. Once an emergency suspension has been administered, the affected member and the administering supervisor will meet with the appropriate Deputy Chief, or designee, in charge of the affected member's section the next working day at 0900 hours. Emergency suspensions shall be without pay.
- B. A member who is placed on emergency suspension shall, upon request, be afforded access to the disciplinary process described above within a reasonable time period set by the Police Division.
- C. Emergency suspensions shall require immediate notification to the Chief of Police.

IX. GENERAL GUIDELINES

- A. Any corrective/disciplinary action taken in regard to a complaint shall be documented on the HCPD-069.
- B. All discipline, coaching, and counseling shall be included on the appropriate performance evaluation.
- C. All disciplinary actions shall be tracked and recorded by the DRM, and all final paperwork regarding discipline shall be forwarded to and filed by Internal Affairs in the member's discipline file.
- D. Any suspension shall require the member's supervisor to secure from the member, if applicable, his issued handgun and any other issued firearm, badges, ID cards, vehicle, vehicle keys, computer, and radio.
- E. During the time of the suspension, no member may access any Police Division facility unless requested and escorted by a supervisor and after consultation with the Commander, Internal Affairs.
- F. Nothing in this directive precludes the Division from utilizing non-punitive management

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prerogatives such as loss of assigned vehicle, revocation of secondary employment privileges, performance evaluation(s) including interim or conditional evaluations, and placement in a conditional status when appropriate and when used in accordance with other Division directives and/or Henrico County Policies and Procedures.

By Order of:

Eric D. English
Chief of Police