



# **The Aberdeen Police Department Policies & Procedures Manual Chapter Contents**



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## The Aberdeen Police Department Policies & Procedures Manual



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Chapter 05 Rules of Conduct and Internal Affairs  
Section 01 Oath of Office and Code of Ethics

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GO 15-056, 03/20/2015  
Supersedes GO 13-005

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### A. Policy

1. All personnel, prior to assuming sworn status, will take and abide by an oath of office. (1.1.1)
2. All members of the Department shall abide by the Code of Ethics (1.1.2)
3. All personnel shall receive Ethics Training at least every two years. (1.1.2)

### B. The Oath of Office (1.1.1)

I, (Name of Officer), do swear (or affirm), that I will support the Constitution of the United States; and that I will be faithful and bear allegiance to the State of Maryland, and support the Constitution of laws thereof; and that I will, to the best of my skill and judgment, diligently and faithfully, without partiality or prejudice, execute the office of Police Officer for the City of Aberdeen, according to the Constitution and laws of this state.

### C. Law Enforcement Officer Code of Ethics (1.1.2)

1. As a Law Enforcement Officer, my fundamental duty is to serve mankind; to safeguard lives and property; to protect the innocent against deception; the weak against oppression or intimidation, and the peaceful against violence or disorder; and to respect the Constitutional rights of all men to liberty, equality and justice.
2. I will keep my private life unsullied as an example to all; maintain courageous calm in the face of danger, scorn, or ridicule; develop self-restraint; and be constantly mindful of the welfare of others. Honest in thought and deed in both my personal and official life, I will be exemplary in obeying the laws of the land and the regulations of the Department. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept ever secret unless revelation is necessary in the performance of my duty.
3. I will never act officiously or permit personal feelings, prejudices, animosities, or friendships to influence my decisions. With no compromise with crime and with relentless prosecution of criminals, I will enforce the law courteously and appropriately without fear or favor, malice or ill will, never employing unnecessary force or violence and never accepting gratuities.
4. I recognize the badge of my office as a symbol of public faith, and I accept it as a public trust to be held so long as I am true to the ethics of the police service. I will constantly strive to achieve these objectives and ideals, dedicating myself before God to my chosen profession-- Law Enforcement.



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GO 15-056, 03/20/2015  
Supersedes GO 13-005

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### **D. Civilian Code of Ethics (1.1.2)**

1. As a non-sworn employee/volunteer of the Aberdeen Police Department I regard myself as a member of an important and honorable profession.
2. I will keep myself in the best physical and mental condition at all times.
3. I will perform my duties with efficiency to the very best of my ability.
4. I will be truthful at all times. My conduct and performance of duties will be accomplished in an honest manner, and in compliance with all laws: local, state, and federal.
5. I will adhere to the confidentiality of the Law Enforcement profession.
6. I will not work for unethical advantage or personal profit in the performance of my duties.
7. I will recognize at all times that I am a public safety employee and that ultimately, I am responsible to the public.
8. I will give the most efficient and impartial service of which I am capable at all times. I will be courteous in all my contacts at all times.
9. I will regard my fellow employees with equality, dignity, and respect.
10. I will be loyal to my fellow employees, my superiors, and my agency.
11. I will accept responsibility for my actions.
12. I will strive to do only those things that will reflect honor on my fellow employees, my agency and me.



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Chapter 05 Rules of Conduct and Internal Affairs  
Section 02 Rules of Conduct

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GO 19-045, 09/18/2019  
Supersedes GO 17-022

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### **A. Policy (26.1.1)**

1. It is the policy of the Aberdeen Police Department that all employees shall comply with the rules of conduct.
2. The violation of any rule of conduct, procedure, or lawful order, whether written or verbal, subjects the violator to disciplinary action.
3. Ignorance of the rules, procedures, and orders of the Department is not justification for any such violation.
4. An employee shall be responsible for his own acts and he may not transfer to others his responsibility for executing or failing to execute any lawful order or police duty.

### **B. Reporting for Duty**

1. An employee shall not absent himself without properly approved leave.
2. An employee shall report for duty at the time and place specified by his superior and shall be physically and mentally fit to perform his duty.
3. He shall be properly equipped and cognizant of information required for the proper performance of duty so that he may immediately assume his duties.
4. Every officer shall be entered into the CAD System to indicate the actual time his tour of duty began and ended.
5. If any employee is unable to report for duty due to sickness or other causes, such employee shall, as soon as possible, notify the supervisor of the reasons for his absence.
6. Police officers, while off duty, shall be subject to call at all times.
7. In the event of an emergency or potential emergency, officers ordered to an "inactive - on call" duty status and those required to leave word where they may be reached, will notify the on-duty Police Communications Officer of the location and telephone number where they can be contacted.

### **C. Courtesy**

1. An employee shall be courteous to the public and to fellow employees.
2. He shall be tactful in the performance of his duties, shall control his temper and exercise utmost patience and discretion, and shall not engage in argumentative discussions, even in the face of extreme provocation.
3. While on duty or in the performance of his duties, he shall not use coarse, violent, profane, or insolent language or gestures toward the public or fellow employees.
4. He shall not express any prejudice or use language which might be insulting or demeaning to the public or fellow employees concerning race, sex, religion, politics, national origin, lifestyle, or similar personal characteristics.
5. Employees will, at all times, show respect for their fellow employees and will conform to the rules of military courtesy and military discipline as prescribed by the Chief of Police.

### **D. Department Identification**

1. All Department personnel shall be issued an official Aberdeen Police Department Identification card that includes their photograph on the card. (22.1.8b)



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2. Exceptions to displaying Department identification or Department badge shall be approved by the Chief of Police.
3. Displaying of Department identification at Police Headquarters:
  - a. Non-sworn employees shall display the Department identification card on the front between the shoulders and the waist; and
  - b. Plainclothes sworn officers shall display the Department identification card or their Department badge on the front between the shoulders and the waist.
4. All personnel, sworn and non-sworn, shall furnish his/her name and assignment when requested in person (22.1.8a) or on the telephone except: (22.1.8c)
  - a. When authorized not to do so by the Chief of Police; or
  - b. When refusal may be necessary for the proper performance of police duties.
5. An on-duty sworn officer, who is not readily identified by the uniform of the Aberdeen Police Department, shall carry his/her badge or identification card where it can be immediately displayed upon request.
6. A sworn plainclothes officer who makes a traffic stop or makes an arrest shall identify himself/herself to the violator and display his/her badge and/or identification card immediately upon request.

### **E. Personal Appearance**

1. An employee shall maintain a neat, well-groomed appearance and shall style his/her hair and wear his/her uniform consistent with established Department policy and procedures. (22.1.6)

### **F. Unbecoming Conduct**

1. Every employee shall conduct himself at all times, both on and off duty, in a manner which reflects most favorably on the Department.
  - a. The phrase, "reflects most favorably" pertains to the perceptions of both citizens and other Department employees.
2. Conduct unbecoming shall include that which
  - a. Tends to bring the Department into disrepute;
  - b. Reflects discredit upon the employee as a representative of the Department; or
  - c. Tends to impair the operation or efficiency of the Department or employee.
3. A supervisor shall not injure or discredit a subordinate through unreasonable, unjust, arbitrary, or tyrannical conduct, or abusive language.
4. An employee shall not maliciously threaten, strike, or assault any other employee of the Department.

### **G. Following Orders**

1. Employees of the Department shall, unless otherwise directed by competent authority, transact all official business with employees who are senior in rank or classification through the chain of command.



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2. An employee shall promptly obey all lawful orders of a superior, including those from a superior relayed by an employee of equal or lesser rank. (12.1.3)
  - a. A lawful order is any order, either verbal or written, which an employee should reasonably believe to be in keeping with the performance of his duties or the responsibilities of his post.
3. Employees shall obey all orders from superiors, whether written or verbal, except when compliance with such orders would require the commission of an illegal act. (12.1.3)
  - a. An employee shall not, without adequate justification, intentionally issue an order that is contrary to an order issued by a superior.
  - b. Employees to whom conflicting orders are issued will call immediate attention to such conflict; however, if the conflict is not resolved, the last order will be obeyed.
4. Any order may be countermanded in an emergency.
  - a. An employee countermanding a prior order shall immediately report the reason for his action to his immediate supervisor.
  - b. Responsibility for all prudent and reasonable action necessary for compliance with orders shall remain with the superior issuing the order.
  - c. Accountability for all action taken in compliance with orders remains that of the person taking such action.
5. At the scene of any incident, the assigned police employee shall be in charge until relieved at the direction of another officer senior in rank.

### **H. Criticism**

1. An employee shall not criticize or ridicule the Aberdeen Police Department, any other City Department, or the Maryland Judiciary, their policies, or their officers by speech, in writing, or by expression in any other manner, when such speech, writing, or other expression is defamatory, obscene, unlawful, exhibits a reckless disregard for truthfulness, or tends to undermine the operation of the Aberdeen Police Department, other City agency, or the Judiciary by impairing their efficiency or interfering with their operation or maintenance of discipline.

### **I. Abuse of Position**

1. While deprived of police powers, employees will not wear the uniform and will not represent themselves in an official capacity as an employee of the Department.
2. An employee is prohibited from using his official position or his official identification card or badge for personal or financial benefit or as a means of obtaining privileges not otherwise available to him, or for avoiding consequences of illegal acts.
3. An employee may not lend his identification card or badge to another person, or permit it to be photographed or reproduced without the approval of the Chief of Police.
4. An employee shall not permit or authorize the use of his name, photograph, or official title identifying him as an employee of the Aberdeen Police Department in connection with testimonials or advertisements of any commodity or commercial enterprise, or for personal reasons without the approval of the Chief of Police.



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5. An employee shall not sign a petition, without the authority of the Chief of Police when his signature identifies him as an employee of the Department; nor shall any employee sign any petition which has an unlawful purpose.
  - a. However, any employee may sign a lawful petition as a private citizen.
6. An employee shall not address a public gathering, appear on radio or television, prepare any article for publication, act as a correspondent to a newspaper or a periodical, release or divulge investigative information or any other matters of the Department, either in an official or unofficial capacity without first having obtained permission from the Chief of Police.

### **J. Associations**

1. An employee shall avoid associations or dealings with persons whom he knows, or should know, are racketeers, gamblers, felons, persons under criminal investigation or indictment, or others who have a reputation in the community for felonious or criminal behavior, except as directed otherwise by a superior.
2. An employee shall not visit or enter a house of prostitution, gambling house, or any other establishment wherein the laws of the United States, the laws of the State of Maryland, or any other law or ordinance of a political subdivision are violated except in the performance of duty and while acting in response to lawful and specific orders of a superior.
3. An employee shall not in any manner affiliate himself with any organization, association, movement, group or combination of persons which advocates the overthrow of the Government of the United States or any state, or which has adopted the policy of advocating or approving the commission of acts of force or violence to deny any person his rights under the Constitution of the United States or any state, or which seeks to alter the form of government of the United States or any state by unconstitutional means.

### **K. Immoral Conduct**

1. Every employee shall maintain a level of moral conduct in his personal affairs which is in keeping with the highest standards of the law enforcement profession.
2. Employees shall not be participants in any incident involving moral turpitude which compromises or has the potential to compromise his ability to perform as a law enforcement officer or as an employee of the Aberdeen Police Department, or causes the Department to be brought into disrepute.

### **L. Conformance to Law**

1. An employee shall not violate his oath of office and trust or any other condition of his employment with the City of Aberdeen or commit an offense punishable under the laws or statutes of the United States or any sovereign nation, the State of Maryland, or public local laws or ordinances.
2. Any employee who has been charged with a violation of any law, statute, or public local law or ordinance stipulated in this Section must report the facts concerning such violation immediately to his commanding officer. Parking violations, except when they are issued to a Department vehicle, are exempted from this subsection.





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### **M. Payment of Debts**

1. Employees of the Aberdeen Police Department shall make every effort to pay all just debts and legal liabilities. Disciplinary action may be taken when:
  - a. Judgments of creditors have been finally adjudicated and the employee, even though able to pay, has refused to comply with such judgment; or
  - b. The effects of such indebtedness have adversely affected the ability of the employee to perform his job or have negatively reflected on the reputation or effectiveness of the Department.
2. Absent extenuating circumstances, disciplinary action shall be inappropriate where:
  - a. The employee has made a genuine and sincere effort to pay his debts, or
  - b. The employee has filed for a voluntary bankruptcy petition.

### **N. Seeking or Accepting Gifts, Gratuities/Bribes**

1. An employee shall not solicit, seek, or accept any gift or gratuity, including food or drink for himself or another from any individual, business establishment, or merchant, where such offer of acceptance can be construed to be an effort to influence his official conduct as an Aberdeen police officer.
2. An employee shall not receive, seek, solicit, or share in any fee, reward, or other reimbursement for the performance of his official duties, or for his failure to perform official duties, except as directed by the Chief of Police.
  - a. He shall immediately report any offer, or attempt to offer, of money, gift, or other gratuity made in an effort to influence his official conduct.
3. Employees shall not solicit or accept any subscription or contribution for any purpose whatsoever except in conformance with Department policy.
4. Employees shall not receive any money or other thing of value for any services performed by him/her as an employee of the Department or otherwise resulting from such employment except as permitted by the Workmen's Compensation Law, or rule.

### **O. Political Activity**

1. Employees shall not engage in campaign work (voluntary or paid) during duty hours or other APD paid time, except vacation and compensated time off.
2. Employees shall not use their position as an Aberdeen Police Department employee to endorse or oppose a candidate or ballot issue.

### **P. Strike or Job Action**

1. An employee shall not engage in any strike or job action.
2. Strike or job action includes, but is not limited to, a failure to report for duty, willful absence from duty, unauthorized holidays, sickness unsubstantiated by physician's statement, stoppage of work, or the abstinence in whole or in part from the full, faithful, and proper performance of the duties of employment for the purpose of inducing, influencing, or coercing a change in conditions, compensation, rights, privileges, or obligations of employment.





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### **Q. Administrative Investigations**

1. The following procedure will govern the submission of reports in administrative investigations:
  - a. During any administrative investigation an accused employee shall, upon order of competent authority, submit a written report detailing the facts concerning his involvement in the incident being investigated where the incident is related specifically, directly, and narrowly to the performance of his official duties
  - b. Whenever an employee of the Aberdeen Police Department is ordered to submit a detailed report concerning an incident in which he is alleged to have been involved and if the authority ordering the report knows or should have known, that the report is likely to contain information which may be used as evidence against the employee in a disciplinary hearing, then the authority ordering the report will, at the time of such order, provide the member with a copy of Notification of Complaint/Waiver of Rights (APD Form 79).
    - 1) The Form 79 should clearly state that the recipient is the subject of an investigation, and clearly include the nature of the investigation.
    - 2) These criteria do not apply to the submission of procedural reports required by Department standard operating procedure, rule or policy.
    - 3) The original of Form 79 will be attached to the report of investigation concerning the incident.
2. An employee shall report to his superior all information that comes to his attention concerning organized crime, racketeering, vice conditions, etc.
3. All reports submitted by employees of this Department will be truthful; no employee shall knowingly report or cause to be reported any false information.
4. All reports submitted by employees of this Department will be complete and will not contain improper or inaccurate information.
5. An employee shall treat the official business of the Department as confidential.
6. Information regarding official business shall be disseminated only to those for whom it is intended in accordance with established Department procedures.
  - a. An employee may remove or copy official records or reports from the Department only in accordance with established procedures.
  - b. An employee shall not divulge the identity of a person giving confidential information, except as authorized by proper authority in the performance of police duties.
7. The content of draft promotional and transfer lists or other material labeled "Draft" or "Confidential" must be treated with the utmost sensitivity, as items of this nature may differ significantly when finalized.
  - a. Only those employees officially directed under competent authority to review, discuss or have input into draft and confidential material may divulge the content of said material and then only to employees specifically authorized by official directive.



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### **R. Fictitious Illness or Injury Reports**

1. An employee shall not feign illness or injury, falsely report himself ill or injured, or otherwise deceive or attempt to deceive any official of the Department as to the condition of his health.

### **S. Interference with Duty**

1. An employee shall not attempt to bring influence to bear on the Chief of Police for the purpose of securing promotion or reassignment, or to avoid penalties for violations of the Department's policies, rules, procedures or orders.
2. An employee shall not interfere with cases assigned to other employees for investigation without consent, except by order of a superior officer; nor shall he interfere with the operation of a division, section, or unit.
  - a. An employee shall not interfere with any lawful arrest or any prosecution brought by other police employees of the Aberdeen Police Department or by any other Department or person.
  - b. An employee shall not undertake any investigation or other police action not a part of his regular police duties without first obtaining permission from his superior unless he can justify the need for his immediate intervention.
3. An employee shall not be directly or indirectly concerned with making arrangements, agreements, or compromises between a criminal and a person who has suffered from his criminal acts for the purpose of allowing the criminal to escape any punishment prescribed by law.
  - a. Any employee having knowledge of such an arrangement, agreement, or compromise shall report such to his immediate superior without delay.
4. An employee of this Department shall not reveal the identity of an employee assigned to plain clothes or covert investigative work.
  - a. An employee shall not recognize such employees unless such other member salutes or acknowledges him/her first.

### **T. Abuse of Process/Withholding Evidence**

1. An employee shall not intentionally manufacture, tamper with, falsify, destroy, or withhold evidence or information, or make any false accusations of a criminal charge.

### **U. Evidence/Found and Recovered Property**

1. Property which has been received as evidence in connection with investigations or which, for any other reason, comes into the custody of this Department shall be processed in accordance with established procedures.
2. An employee shall not convert to his/her own use, manufacture, tamper with, or damage through negligence, or destroy, or in any other way misappropriate any evidence or any other material or property found in connection with an investigation or other police action, except in accordance with established Department procedures.



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### **V. Suggestions Pertaining to Services**

1. An employee shall not recommend or suggest in any manner, except in the transaction of personal business and then representing himself only as a private citizen, the employment or procurement of a particular product, professional service, or commercial service (such as an attorney, ambulance or towing service, bondsman, mortician, etc.).
2. In the case of ambulance or towing service when such service is necessary and the person needing service is unable or unwilling to procure it, the employee shall proceed as a law enforcement officer in accordance with Department procedure.

### **W. Requests for Assistance**

1. When the public requests assistance or advice, either by telephone or in person, all pertinent information will be taken in an official and courteous manner, and will be acted upon consistent with established Department procedures.
2. Police employees of the Department shall not act in an official capacity, without authority, in any civil case, except where such action will prevent a breach of the peace or assist in quelling a disturbance.

### **X. Citizen Complaints**

1. An employee shall courteously and promptly accept and report any allegation or complaint made by a citizen against any employee of the Aberdeen Police Department.

### **Y. Neglect of Duty**

1. Department employees shall be punctual in attendance to all calls, requirements of duty, court appointments, and other assignments.
2. An employee will not read, play games, watch television or movies, or engage in any activity or personal business while on duty that would cause him to neglect or be inattentive to that duty.
3. The failure of an employee to take appropriate action, either on or off duty, on the occasion of a crime, disorder, or other condition deserving police or Department administrative attention is considered neglect of duty.
4. An employee will not, without proper authorization, absent himself from his assigned place of work during his tour of duty.
5. An employee will remain awake and alert while he is on duty. If unable to do so, he will report to his superior officer, who will determine the proper course of action.
6. An employee may be authorized to suspend patrol or other assigned activity, subject to immediate recall at all times, for the purpose of having meals during his tour of duty, but only for such periods and at such times as are authorized by his supervisor.
  - a. He will inform communications of the telephone number and location when he leaves service.

### **Z. Use of Alcoholic Beverages**

1. An employee will not drink intoxicating beverages while in uniform or while on duty unless it is necessary for the performance of his duty.



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- a. In every case where it is necessary for an employee to use intoxicating beverages while on duty, written permission must be obtained from the employee's immediate superior.
  - b. An employee given written permission to consume intoxicating beverages while on duty may not do so to the extent that his ability to perform his duty is impaired.
2. An employee will not report to work with any level of alcohol in his system.
3. Inactive-on call/Unrestricted standby/Recalled to duty
  - a. Inactive-on call - An employee ordered to an inactive-on call duty status will not consume alcoholic beverages during the time that he is on call.
  - b. Unrestricted standby - An employee who, by virtue of a written or verbal order, duty schedule, etc., is informed that he has been placed on unrestricted standby duty status and that it is expected he will be able to immediately report for duty if called, will not consume alcoholic beverages.
  - c. Recalled to duty - An employee not in an inactive-on call or unrestricted duty status who has consumed alcoholic beverages and is recalled to duty will notify the supervisor on duty of his condition and will refrain from further consumption of alcoholic beverages.
    - 1) The employee will be afforded sufficient reporting time to assure the alcohol is no longer in his system.
4. No employee will bring any intoxicating beverage into any building or quarters officially occupied by the Aberdeen Police Department, nor will he permit the same to be brought therein, except as evidence or pursuant to Department property held procedures, and excluding commercial or prescribed medication.

### **AA. Use of Drugs**

1. An employee will not use any controlled substance, narcotic, or hallucinogen, except when prescribed in the treatment of an employee by a licensed physician or dentist.
2. When controlled substances, narcotics, or hallucinogens are prescribed, an employee will notify the Chief of Police of this fact.

### **BB. Treatment of Persons in Custody**

1. A employee will not mistreat persons who are in his custody. He will handle persons in accordance with established Department procedures.
2. An employee will not, without proper authority, release any prisoner in his charge or, through neglect or design, allow any prisoner in his charge to escape.

### **CC. Use of Force**

1. An employee, acting in his official capacity, will not use unnecessary or excessive force.

### **DD. Firearms**

1. Weapons shall not be used, displayed, or handled in a careless or imprudent fashion or contrary to Aberdeen Police Department policy.



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### **EE. Department Equipment**

1. Department equipment will be used and maintained in accordance with established Department procedures and will not be abused, damaged, altered, or through negligence, lost.
  - a. An employee will not cause or contribute to the damage, abuse, alteration, or loss of any Department equipment through negligence or carelessness.
  - b. An employee may not convert to his own use or in any way misappropriate Department equipment/property.
2. Any employee deprived of his police powers will turn in all Department issued equipment designated in the order suspending his police powers.
3. Employees under suspension are not permitted to operate a Department vehicle.
4. An employee will operate an official vehicle in a careful and prudent manner, and will not through negligent or careless operation incur or cause damage to be incurred to Department property or to the property of another.
  - a. He will obey all laws of the State of Maryland and all local ordinances, and conform to all Department procedures and regulations pertaining to operation and maintenance of any Department vehicle assigned to him on a permanent or temporary basis.
  - b. An employee will at all times set a proper example for other persons by his operation of a vehicle.
5. Damage to or loss of Department equipment will be reported in conformance with Department procedure.
6. An employee will not have any item of Department equipment repaired, adjusted, or modified without official authorization.
7. Only employees of this Department will be permitted to operate or attempt to operate any Department owned vehicle, or use any Department issued firearm, or use any other item of property owned by the Aberdeen Police Department; however, specific exceptions to this rule may be authorized by the Chief of Police.

### **FF. Incompetence**

1. Employees shall be held strictly responsible for the proper performance of their duties.
2. Employees shall maintain sufficient competency to properly perform their duties and assume the responsibilities of their positions.
3. Employees shall perform their duties in a manner which will maintain the highest standards of efficiency in carrying out the functions and objectives of the Department.

### **GG. Sexual Behavior**

1. An employee will not engage in any sexual behavior while on duty.
2. An employee will not engage in any sexual contact or sexual act during any investigation involving prostitution, lewdness or any other vice crime.
3. While off duty, employees will not engage in any sexual behavior in a Department facility or while using a Department vehicle.



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### **HH. Relationships**

1. Employees shall not allow personal relationships between them to interfere with the performance of their duties, and the maintaining of professional behavior.
2. Supervisors and Command Staff shall not have direct supervision of a blood relative, spouse or domestic partner, or any Department employee with whom they are intimately or romantically involved, except in the event of an emergency where other supervisory personnel are not available.
3. An employee may not be involved in a romantic or intimate relationship with a probationary employee while the employee is fully or partially responsible for the evaluation of the performance or oversight of the probationary employee.
  - a. For Supervisors and Trainers, this includes all probationary employees until the end of their probationary status.
  - b. For Field Training Officers, this extends for the duration of a probationary employee's field training assignment with the Field Training Officer.
4. A Supervisor or Command Staff member has the responsibility to make a relationship prohibited by paragraph **HH.3**, known to his/her Supervisor or the Chief of Police.
  - a. If a prohibited relationship is reported to a Supervisor or Command Staff member, the Supervisor or Command Staff member shall report the relationship to the Chief of Police through the chain of command.
5. After being advised of a prohibited relationship, the Chief of Police shall determine the appropriate course of action.





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Chapter 05 Rules of Conduct and Internal Affairs  
Section 03 Definition of Terms

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### A. Definitions

For the purpose of this Chapter, the following definitions will apply:

1. **Administrative Investigation** - Any inquiry initiated by command or supervisory personnel of this Department, into alleged inappropriate or wrongful actions of another employee, which inquiry is intended to lead to an objective finding.
2. **Adverse Material** - "A law enforcement agency may not insert any adverse material into any file of the officer, except the file of the internal investigation, unless the officer has an opportunity to review, sign, receive a copy of, and comment in writing upon the adverse material, unless the officer waives these rights." Public Safety Article, Title 3-104(o), of the Annotated Code of Maryland. Therefore, in accordance with the Law Enforcement Officers' Bill of Rights, adverse material relating to a Department police employee which the employee has not had an opportunity to review, sign, receive a copy of, and comment in writing upon, may only be maintained in the Internal Affairs files.
3. **Brutality** - Is considered to include any situation where in a law enforcement officer, while acting in his official capacity, resorts to the use of force which is unnecessary in its origin and application; or if force is deemed necessary, is excessive in its application
4. **Complaint** - An allegation of misconduct or a violation of Department rules of conduct, policy, or procedures against an employee of the Agency.
5. **Complainant** - The aggrieved person, a member of the aggrieved person's immediate family, or a parent or guardian in the case of a minor child, or any person with firsthand knowledge obtained through his presence at and observation of the alleged incident.
6. **Counseling** - Supervisory counseling of subordinates is non-disciplinary action.
7. **Department** - Aberdeen Police Department
8. **Emergency Suspension** - A temporary suspension of police powers imposed against a law enforcement officer, with or without loss of compensation, on authority of the Chief of Police, by a supervisory officer superior in rank when it appears that such action is in the best interest of the public and the Department.
9. **Formal Hearing** – is any proceeding conducted by a Hearing Board for the purpose of taking or adducing testimony or receiving other evidence in connection with charges filed against a Department employee.
10. **Hearing Board** - A board authorized by the Chief of Police to conduct a hearing on a complaint. Members of a board will be selected from the total uniformed complement of the Department or from another agency with the approval of the chief of that other agency. Board members may not have participated in the investigation or interrogation of the accused law enforcement officer.
11. **Incompetence** - Evidence of incompetence may include, but need not be limited to, a history of poor performance appraisals and promotional potential ratings; an aggregate of infractions of Department rules, regulations, procedures, directives or orders; a demonstrated lack of knowledge of the application of laws required to be enforced; an unwillingness or inability to perform assigned tasks; failure to conform to work standards established for the employee's





## The Aberdeen Police Department Policies & Procedures Manual



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Chapter	05	Rules of Conduct and Internal Affairs
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rank or position; negligence resulting in duties not being performed or performed in an unacceptable manner; failure to take appropriate action on the occasion of a crime, disorder, or other condition deserving police attention; absence without leave; unnecessary absence from the assigned patrol or place of work during a tour of duty.

The repeated inability to perform assigned duties due to physical incapacitation brought about by an employee's excessive use of alcohol shall also be considered evidence of incompetence.

12. **Law Enforcement Officer** - Any employee of the Department, who in his official capacity, is authorized by law to make arrests but not including any law enforcement officer serving in a probationary status, except when allegations of brutality in the execution of his duties are made. The term "law enforcement officer," as used in this Chapter, will include all sworn police employees employed by the Aberdeen Police Department. The term "probationary status" includes only a police employee who is in that status upon initial entry into the Department.
13. **Loss of Police Powers** - The act by which a police employee of the Department is temporarily deprived of the powers and immunities granted him as a law enforcement officer.
14. **Non-Enforcement Duty Status** - The status during which a police employee of the Department is temporarily deprived of the powers and immunities granted to him as a law enforcement officer. For purposes of compensation, he shall retain his status as an employee of the Department, but shall be assigned administrative, clerical or other non-enforcement duties.
15. **Non-Sustained** - The investigation fails to disclose sufficient evidence to clearly prove the allegations made in the complaint. This includes unfounded, exonerated, and not-involved complaints.
16. **Party** - The accused, his representative or the prosecutor.
17. **Penalties - Except** for summary punishment, the Department's final disciplinary authority rests with the Chief of Police. Any supervisor or Hearing Board may recommend disciplinary action. Recommended penalties may include, but are not limited to:
  - a. Written Reprimand
  - b. Loss of Regular Leave
  - c. Transfer
  - d. Fine
  - e. Suspension
  - f. Loss of Annual Leave
  - g. Other action which would be considered a punitive measure
  - h. Loss of Police powers
  - I. Demotion
  - j. Dismissal



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18. **Summary Punishment** - Formal disciplinary action which may be taken for minor violations of Department rules, policy, or procedure when:
  - a. The officer accepts the punishment recommended by his supervisor and approved by the Chief of Police.
  - b. The facts which constitute the minor violation are not disputed.
  - c. The employee waives the formal hearing provided for in this Chapter by completing the Waiver of Hearing Board and Acceptance of Summary Punishment form (APD Form 85).
19. **Suspension** - The penalty by which a police employee of the Department is, for the purposes of compensation, deprived of his status as an employee of the Department for one or more consecutive calendar days. Consecutive days may be interrupted as required, by mandatory appearances before courts, regulatory agencies or administrative bodies.
20. **Sustained** - A finding that an investigation disclosed sufficient evidence to substantiate the allegations made in the complaint.
21. **Transfer** - The Chief of Police has the authority "...to regulate the competent and efficient operation and management of a law enforcement agency by any reasonable means including, but not limited to, transfer and reassignment where the action is not punitive in nature and where the chief determines that action to be in the best interest of the internal management of the law enforcement agency." (Public Safety Article, title 3-102(c), of the Annotated Code of Maryland. Transfers resulting from the imposition of disciplinary action must be administered only in accordance with the provisions of the Law Enforcement Officers' Bill of Rights.



# The Aberdeen Police Department Policies & Procedures Manual



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Chapter 05 Rules of Conduct and Internal Affairs  
Section 04 Complaints Against Personnel

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GO 19-042, 09/05/2019  
Supersedes GO 17-036

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## A. Policy

1. This Department has a duty to investigate thoroughly: (35.1.9a)
  - a. All allegations of involvement in criminal activity or misconduct by its employees;
  - b. All suspected violations of *Department Policies and Procedures*, other policies and procedures, and all complaints directed against employees; and
  - c. Allegations, including anonymous complaints, against employees. (26.2.1)

## B. Internal Investigations

1. Supervisors shall investigate alleged behavior or conduct including but not limited to: (26.3.1a)
  - a. Rudeness;
  - b. Tardiness;
  - c. Misuse of Department property;
  - d. Unsafe driving;
  - e. Improper procedural matters; and
  - f. Any other conduct unbecoming a member of the Aberdeen Police Department, depending upon the seriousness of the allegation

## C. Internal Affairs

1. The Deputy Chief is responsible for the internal affairs function. (26.2.3)
2. The Criminal Investigations Supervisor is designated to review all related reports and determine if further investigation is warranted. If further investigation is determined to be warranted, an Internal Affairs case number will be obtained.
3. Internal Affairs investigators shall investigate alleged behavior or conduct including but not limited to: (26.3.1b)
  - a. Excessive force;
  - b. Criminal conduct;
  - c. Deprivation of civil rights;
  - d. Corruption or dishonesty;
  - e. Unlawful arrest;
  - f. Vehicle pursuits resulting in personal injury;
  - g. On-duty serious injury or death of an employee;
  - h. Serious injury or death of a person as the result of an officer's actions;
  - i. Complaints that cannot be resolved by the supervisor; and
  - j. Cases as directed by the Chief of Police.

## D. Receiving Citizen Complaints

1. A complaint may be received in person, in writing, by email ([iau@aberdeenmd.gov](mailto:iau@aberdeenmd.gov)), or by telephone call to the Department.



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- a. The email address is directed to the CID Supervisor.
- b. Although not required, the complainant should be encouraged to appear in person.
2. Any employee first acquiring knowledge of a complaint shall courteously and promptly:
  - a. Notify a Supervisor; and
  - b. Whenever possible, connect the complainant with a Supervisor.
3. A Supervisor shall receive all in-person and telephone complaints.
4. The Supervisor shall meet with or otherwise interview the complainant and complete a Form 75 – Complaint Against Personnel Report.

### **E. Employee Complaints**

1. An employee may submit a complaint against another Department employee of higher rank or classification on Form 75 – Complaint Against Personnel Report directly to the appropriate Commander.
2. An employee may submit a complaint against another Department employee of lower rank or classification on Form 75 – Complaint Against Personnel Report directly to the appropriate Commander *or* to the employee's immediate supervisor.

### **F. Complaint Processing**

1. The Supervisor shall place a completed Report in a sealed envelope and forward the Report to the Deputy Chief through the chain of command.
2. The Deputy Chief shall review the Report and, within 72 hours after receipt of the complaint, assign the complaint to Internal Affairs or a supervisor.
  - a. The Deputy Chief shall advise the Chief of Police, orally or in writing, of all complaints against personnel. (26.3.2)

### **G. Brutality Complaint Processing**

1. The Department shall investigate a complaint against an employee when a sworn, written complaint (Form 93 - Complaint of Brutality – Excessive Force) is received within 366 days after the alleged brutality, from:
  - a. The complainant;
  - b. A member of the complainant's immediate family;
  - c. An eye witness; or
  - d. The parent or guardian in the case of a minor child.
2. The receiving officer may receive from the complainant a video recording of the incident with a sworn statement that, to the best of the complainant's knowledge, the recording is unaltered.
3. The Department may not initiate an investigation of brutality if:
  - a. The complaint is received 367 days or more after the alleged incident; or
  - b. The complaint is not signed and sworn.



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4. If the complainant does not submit a sworn statement, the assigned officer will inform the complainant that the Department cannot investigate an allegation of brutality without the sworn statement. The receiving officer will:
  - a. Complete a Form 75 - Complaint against Personnel Report; and
  - b. Document that the complainant refused to swear to the complaint of brutality.
5. The Department will process the complaint as misconduct or other appropriate complaint.

### **H. Keeping the Complainant Informed**

1. The Deputy Chief or designee shall:
  - a. Within 72 hours of the Department's having received a complaint, notify the complainant to verify the complaint was received; (26.3.4a)
  - b. Send status reports to the complainant 30 days after the complaint was received, and every 30 days thereafter, until the investigation is brought to conclusion; and (26.3.4b)
  - c. Notify the complainant when the investigation is concluded, including: (26.3.4c)
    - 1) The outcome of the complaint within 72 hours of a disposition; and
    - 2) Any discipline imposed, in accordance with established confidentiality policies and any applicable law.

### **I. Notifying the Employee of a Complaint (26.3.5)**

1. The CID Commander shall inform the employee in writing that he/she has become the subject of an internal investigation.
2. Notification of Complaint Waiver of Rights (APD Form 79) shall state:
  - a. The employee is the subject of an internal investigation;
  - b. The details of the complaint; and
  - c. The employee's rights.

### **J. Notifying the Employee of Charges**

1. Form 87 - Notification of Charges and Acceptance of Punishment shall be completed with only one charge on each sheet.
  - a. Each charge shall supported by a reference to a rule of conduct or a policy or procedure in the Department Manual or to some other official order or directive of the Department.
  - b. Each charging document shall be numbered sequentially and referred to by number in all related documents.
2. The charge should describe only the offense committed.
  - a. Portions of the rule, procedure, or directive containing irrelevant or extraneous language shall not be cited.
3. The Chief of Police shall determine whether to proceed with summary punishment or to defer the case to a hearing board.



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### **K. Complaint Records**

1. The CID Commander will securely maintain a record of all complaints against the Department or employees. (26.2.2)
2. IAU Case Ledger
  - a. The CID Commander shall record all complaints in the IAU (Internal Affairs Unit) Case Ledger.
  - b. The information in the ledger shall include but not be limited to:
    - 1) Case Number;
    - 2) Date(s) of Incident;
    - 3) Date Received; (26.3.3)
    - 4) Officer or Non-Sworn Employee;
    - 5) Date Assigned;
    - 6) Investigator;
    - 7) Date Investigation Concluded; (26.3.3)
    - 8) Complainant's Name (or anonymous); (26.2.1)
    - 9) Bias Based Incident (Yes or No);
    - 10) Charge;
    - 11) Disposition; and
    - 12) Punishment.

### **L. Expungement of Files**

1. The CID Commander may expunge any record of a formal complaint if:
  - a. The officer has been exonerated of all charges in the complaint or the charges are determined to be unsustainable or unfounded; and
  - b. Three years have passed since the findings were rendered by the law enforcement agency; and
  - c. The officer has submitted a written request to expunge the record.

### **M. Publicizing the Complaint Process**

1. The process for submitting citizen complaints and the timeframe for outcomes shall be:
  - a. Posted on the Department's website; and
  - b. In the form of a brochure, placed in the Department lobby and distributed at Department community policing events.



# The Aberdeen Police Department Policies & Procedures Manual



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Chapter 05 Rules of Conduct and Internal Affairs  
Section 05 Internal Investigations

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GO 19-047, 09/18/2019  
Supersedes GO 18-007

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## **A. Policy**

1. The Deputy Chief is responsible for the Internal Affairs function.
2. Internal investigations may include, but shall not be limited to:
  - a. Questioning the complainant and witnesses;
  - b. Questioning the employees;
  - c. Examining all the physical evidence;
  - d. Exploring all logical leads have been fully explored; and
  - e. Comprehensively, accurately and clearly documenting the case for the Chief of Police.

## **B. Investigation Time Limits (26.3.3)**

1. Investigation Time Limits
  - a. The Deputy Chief shall designate to the CID Supervisor the responsibility to ensure when possible that internal affairs investigations are completed by 30 days after the complaint is received.
  - b. If an investigation is not completed within 30 days, the CID Supervisor shall submit a written report to the Chief of Police, through the Deputy Chief, within 5 days after 30 days has passed, and every 30 days, or as directed by the Deputy Chief, until the investigation is completed.
    - 1) The CID Supervisor shall describe in the report all the details of the investigation and detailed explanations for exceeding the time limit.

## **C. Investigation**

1. The assigned investigator should personally interview the complainant and record all possible identifiers.
  - a. Who, what, when, where, why and how, should be precisely addressed.
  - b. Formal tape-recorded statements of the complainant's interview should be taken whenever possible.
2. The investigator shall obtain a detailed report from the employee, if necessary.
3. The investigator shall give the employee the opportunity to consult with counsel or other responsible representative of his/her choice prior to submitting the report.
4. A supervisor may obtain additional information when needed and prepared a report or an endorsement to the employee's report assessing essential facts and identifying potential chargeable violations.
5. Whenever possible, the investigator should personally interview all witnesses involved in the matter under investigation and, depending on the type or severity of the complaint, obtain recorded statements.
6. The investigator shall review Department Records including but not limited to:
  - a. Incident Report;
  - b. Arrest Reports;





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- c. Incident Reports;
  - d. Department Logs - Radio, Telephone, etc.;
  - e. Patrol Schedules;
  - f. Personnel Records; and
  - g. Field Observation Reports.
7. The investigator shall review Non-Department Records including but not limited to:
- a. Reports from Other Police Departments;
  - b. Hospital Records;
  - c. Physicians Reports;
  - d. Jail Records;
  - e. Court Transcripts; and
  - f. All original reports, Department records, and related documents relevant to the investigation:
    - 1) Written permission or a subpoena may be required to obtain certain records, e.g. physician, hospital;
    - 2) Where written permission is required, the individual whose records are desired will be requested to complete an Authorization Release of Information (APD Form 30); and
    - 3) A copy of all documents obtained by the investigator under this subsection will remain with the original case file.
8. Physical Evidence
- a. An employee under investigation may be required, upon the specific approval of the CID Supervisor or other Command-level officer, to submit to special examinations at the Department's expense, including but not limited to:
    - 1) Medical or laboratory examinations at the Department's expense; (26.3.6a)
    - 2) Submit to blood alcohol test, blood, breath or urine test
    - 3) Allowing to be photographed; (26.3.6b)
    - 4) Allowing to be audio or video recorded; (26.3.6c)
    - 5) Participate in a line-up or show-up; (26.3.6d)
    - 6) Submit financial disclosure statements; and (26.3.6e)
    - 7) Submit to a polygraph examination. (26.3.6f)
  - b. Clothing:
    - 1) Accepted investigative techniques shall be followed;
    - 2) When the officer is the victim, damaged uniforms or Department equipment should be preserved.
  - c. Documents and records:



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- 1) Motor Vehicle Administration;
- 2) Telephone Bills;
- 3) State Licenses; i.e., real estate, medical, banking, etc.;
- 4) Search warrants and affidavits; and
- 5) Department Records.
- d. Recent Photographs of:
  - 1) Complainant - ID photos at the time of the complaint (brutality), etc.;
  - 2) Employee: (26.3.6b)
    - a) A six-photo spread for identification of Department employee; and
  - 3) The scene, if it is considered necessary.
9. Polygraph (26.3.6e)
  - a. Polygraph examinations of Department members will be in accordance with LEOBR.
    - 1) Employees may voluntarily submit to polygraph examinations.
    - 2) Employees may be ordered to submit to polygraph examinations.
10. Sketches - May be appropriate to supplement photographs.
11. Statements - Statements are evidence and must be preserved as such.
  - a. Department Employees - Generally the interview of Department employees is accomplished after the complainant and all witnesses have been interviewed.
  - b. This is determined by the character of the complaint and is the option of the investigator.
    - 1) Department employees subject to interrogation will be notified in writing of the nature of the investigation before any interrogation.
    - 2) The interrogation of Department members will be conducted in compliance with the provisions of LEOBR.
    - 3) Department employees may be required to submit reports detailing the facts concerning their involvement in an incident.
  - c. When an employee of the Department is required to submit a detailed report concerning an incident in which he is alleged to have been involved and the authority ordering the report knows or should have known, the report is likely to contain information that may be used as evidence against the employee in a disciplinary hearing, the report is considered a form of interrogation.
  - d. The authority ordering the report will, at the time of such order, provide the employee with a completed copy of Notification of Complaint - Waiver of Rights (APD Form 79) and allow sufficient time for the employee to consult with counsel or other responsible representative of his choice prior to submitting the report. (52.2.5)
    - 1) The Form 79 should clearly state that the recipient is the subject of an investigation, and clearly include the nature of the investigation.
    - 2) The original of Form 79 will be attached to the report of investigation.



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- e. If the officer ordering the report has reason to believe that criminal charges could be brought against the employee, then the officer shall, at the time of such order, also provide the employee with an Explanation of Miranda Rights.
  - 1) The original of this form will be attached to the report of investigation concerning the incident.
- 12. All evidence regarding firearms will be treated in accordance with established procedures. If a weapon is used by an employee, the following should be determined:
  - a. Is it an approved weapon?
    - 1) Department issue
    - 2) Primary or secondary weapon
  - b. Is the ammunition Department approved?
  - c. Condition of the weapon
    - 1) Complete description of weapon; i.e. make, model, caliber, serial number, etc.
  - d. Was the officer qualified to use that particular weapon?

### **D. Records and Files**

- 1. The completed investigation case file will be compiled in the following manner:
  - a. Complaint Against Personnel Report (APD Form 75).
  - b. Internal Affairs Report (APD Form 86)
  - c. Report of Investigation
    - 1) The CID Supervisor shall include in the report a “conclusion of fact” for each investigation into allegation of misconduct. (26.3.8)
  - d. Appendices:
    - 1) Statement of complainant, if different from that of the victim.
    - 2) Statement of victim, if different from that of the complainant.
    - 3) Statements of witnesses.
    - 4) Notification of Complaint, Form 79, if applicable.
    - 5) Detailed Report.
    - 6) Explanation of "Miranda" Rights if applicable.
    - 7) Other statements/detailed reports.
    - 8) Additional Exhibits - photographs, diagrams, charts, etc.



## The Aberdeen Police Department Policies & Procedures Manual



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Chapter 05 Rules of Conduct and Internal Affairs  
Section 06 Counseling and Remedial Training

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GO 14-111, 11/25/2014  
Supersedes GO 14-007

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### A. Policy

1. It is the policy of this Department to initiate positive, corrective action for improper conduct while, and at the same time, protect officers from unwarranted criticism for properly discharging their duties.
2. It is the intent of the Aberdeen Police Department to resolve administrative infractions and performance issues by fairly applying the appropriate disciplinary or non-disciplinary action.
3. The elements of the disciplinary system include counseling, training, and punitive actions in the interest of discipline.

### B. Definitions

1. [LEOBR](#) – *Maryland Public Safety Code* TITLE 3 - LAW ENFORCEMENT, “Law Enforcement Officers’ Bill of Rights”

### C. Department Non-Punitive Progressive Discipline

1. Verbal Counseling – not disciplinary actions under LEOBR
2. Written Counseling – not disciplinary actions under LEOBR
3. Remedial Training

### D. Authorization Levels (26.1.5)

1. All Supervisors are authorized to
  - a. Administer verbal counseling,
  - b. Administer written counseling,
  - c. Recommend and/or conduct remedial training.
2. Lieutenants and above are authorized to
  - a. Administer written reprimands
  - b. Investigate complaints of employee misconduct, subject to review and approval of the Chief of Police;
  - c. Offer and impose summary punishment, upon review and approval of the Chief of Police;
  - d. Effect emergency suspension of employees;
  - e. Rule complaints against officers as unfounded when a suitable investigation determines the complaint to be malicious, baseless, deliberately false, or frivolous.
    - 1) In such cases, the circumstances will be documented and forwarded to CID, with no further action taken.
3. The Chief of Police
  - a. The Chief of Police has final authority for disciplinary action involving sworn personnel (within the requirements of the LEOBR), and Department civilian employees.
  - b. The Chief of Police has the authority to dismiss an employee from employment, or to suspend an employee without pay for longer than 30 days.



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GO 14-111, 11/25/2014  
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- c. The Chief of Police has the authority to administer any form or combination of discipline authorized by this manual and The City of Aberdeen, consistent with the LEOBR.

### **E. Verbal Counseling (26.1.4b)**

1. Supervisors must let employees know how they are performing by discussing their work performance, not only when performance evaluations are due, but on a regular basis as entries are made in the supervisor employee's performance notes.
2. Supervisors will use verbal counseling and coaching whenever possible.
3. Criteria (including but not limited to the following)
  - a. Administered when the employee may not be aware of a problem, or has a personal issue that is affecting his/her work.
  - b. Administered to
    - 1) Help the employee correct or improve specific skills, knowledge, or behavior
    - 2) Get the employee back on track after inappropriate behavior or substandard work performance
    - 3) Allow the employee to correct an issue before it becomes a serious problem
4. Supervisor Procedure
  - a. Prepare specific examples, whenever possible, to discuss with the employee;
  - b. Meet privately with the employee;
  - c. Discuss the issues;
  - d. Give the employee the opportunity to discuss and address the issues;
  - e. Tell the employee to improve, and give examples, whenever possible; and
  - f. Note and date the discussion in the supervisors' Job Observation Ledger (JOL) to
    - 1) Provide proof that the employee was notified about the issue and
    - 2) Provide a paper trail if the employee fails to correct the issue or problem

### **F. Written Counseling (26.1.4b)**

1. Supervisors shall use Form 76 – Personnel Counseling Record to discuss and correct job problems.
2. The Personnel Counseling Record carries no punitive action.
3. Supervisors shall formally counsel employees concerning job-related matters, and to remain aware that circumstances other than the job itself, including family or other personal matters, may be having an impact on performance.
  - a. Counseling takes place at the Sergeants' level; serious matters may require counseling at the Division or Department level.
  - b. Supervisors may utilize other employees as counselors, when the other employees have specialized areas of experience and expertise.



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- c. A variety of counseling resources are available through the Employee Assistance Program (EAP).
- 4. A formal counseling session shall be held as soon as possible following the conclusion of an investigation.
  - a. The session may be conducted by the person assigned as the employee's supervisor at the time of infraction or may be conducted by the Chief of Police or his designee with the employee's supervisor present.
  - b. The incident shall be discussed with the employee, pointing out the deficiencies in the employee's actions.
  - c. The employee shall be given the opportunity to state his/her views on the matter and to suggest corrective action to prevent future occurrences.
  - d. If the employee refuses to acknowledge receipt of the form, the person conducting the session shall write "Refused to Sign on the employee's signature line.
  - e. The original shall be forwarded to the Sr. Administrative Specialist and a copy shall be given to the employee.
- 5. Form 76 – Personnel Counseling Record Maintenance (26.1.8)
  - a. The original form will be maintained in the employee's personnel file.
  - b. After three years, the employee may request that the counseling form be removed.

**G. Remedial Training (26.1.4a)**

- 1. *Policies and Procedures Manual Chapter 04.08 Training* includes basic criteria for remedial training.
- 2. Additional Criteria includes but not limited to the following:
  - a. To improve an employee's skill, knowledge or behavior
  - b. After verbal counselling's have been unsuccessful
  - c. When deficiency cannot be self-corrected by the employee
  - d. To avoid terminating the employee for lack of skill or other compelling reasons
- 3. Supervisor Procedure
  - a. Discuss the issue with the Training Coordinator
    - 1) Determine, with the Training Coordinator, if remedial training is a method of improving the employee's performance.
- 4. Identify and locate, with the Training Coordinator, the required course of training.
  - a. Meet with the employee and give the employee the notice of remedial training.
  - b. Direct the employee where to go for training.
  - c. Submit the notice and the results of the remedial training course to the Sr. Administrative Specialist for placement in the employee's personnel file.
  - d. The fact that the employee has undergone remedial training may be mentioned in future documentation of unacceptable job performance in the specific area in which remedial training was offered.



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- e. If an employee refuses or fails to attend a remedial training program after being required to do so, he or she will be subject to disciplinary action.





# The Aberdeen Police Department Policies & Procedures Manual



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Chapter 05 Rules of Conduct and Internal Affairs  
Section 07 Grievances

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GO 14-019, 03/05/2014  
Original policy

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## **A. Policy**

1. Grievance procedures are in place to protect the employee's rights and promote a more harmonious work environment.
2. Supervisors and employees are encouraged to talk with each other to establish and maintain good communication channels, eliminate misunderstandings, and promote good working relationships.
3. It is a violation of City of Aberdeen and Aberdeen Police Department (APD) policies and procedures for an employee to go directly to the Mayor or members of Council to seek relief or support on any personnel-related issue.
4. Violation of this policy and procedure will result in disciplinary action up to and including termination of employment.

## **B. Grievance Procedure**

1. Subjects that are grievable: (22.4.1a)
  - a. Job-Related concerns;
  - b. Work Atmosphere concerns; and
  - c. Unjust Treatment of the employee (except for Counseling or Disciplinary actions)
2. The employee should first discuss the problem or concern with his/her Supervisor. (22.4.1b)
3. The Supervisor will carefully analyze and attempt to resolve the concern within 5 days of receiving the complaint. (22.4.1e)
4. If the employee is not satisfied with the Supervisor's response, the employee may choose to submit the concern through a formal, documented Grievance Process.
5. The Deputy Chief is responsible for coordination of grievance procedures and for the maintenance and control of grievance records. (22.4.2)

## **C. Documented Grievance Process**

1. The Employee must submit a signed, written statement of the grievance (Form #37) to the Chief of Police through the chain of command. (22.4.1b)  
The statement shall include: (22.4.1d)
  - a. A statement of the grievance and the facts upon which it is based;
  - b. Significant times, dates, and actions taken relative to the grievance;
  - c. An allegation of the specific wrongful act and harm done; and
  - d. A statement of the remedy or adjustment sought.
2. The Supervisor shall:
  - a. Acknowledge receipt of the written grievance by noting time, date, and initials of the person receiving the grievance;
  - b. Forward, within one day, a copy of the written grievance, with time, date, and initials, to the Chief of Police through the chain of command; and (22.4.1e)
  - c. Within 5 days of receiving the written grievance:



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Chapter 05 Rules of Conduct and Internal Affairs  
Section 07 Grievances

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GO 14-019, 03/05/2014  
Original policy

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- 1) Analyze the grievance; and
  - 2) Prepare and submit a signed, written decision to the employee.
3. The Employee will respond to the Supervisor, in writing, within 5 days, with a signed agreement or disagreement. (22.4.1c)
  - a. If the employee does not respond, the Supervisor shall follow-up until there is a response, talk to the employee, give the employee another copy of the decision, and encourage the employee to respond.
4. The Supervisor shall forward his/her written decision, within one day after receiving the employee's response, and the employee's written response to the Lieutenant. (22.4.1e)
5. The Lieutenant shall:
  - a. Forward the grievance package to the Chief of Police through the chain of command, if the Employee agrees with the Supervisor;
  - b. Acknowledge receipt of the written grievance by noting time, date, and person receiving the grievance, if the Employee disagrees with the Supervisor;
  - c. Forward, within one day, the written grievance and Supervisor's decision to the Chief of Police through the chain of command; and (22.4.1e)
  - d. Within 5 days of receiving the written grievance: (22.4.1e)
    - 1) Analyze the grievance and the Supervisor's decision; and
    - 2) Prepare and submit a written decision to the employee.
6. The Employee will respond to the Lieutenant, in writing, within 5 days, with agreement or disagreement. (22.4.1c)
  - 1) If the employee does not respond, the Lieutenant shall follow-up until there is a response, talk to the employee, give the employee another copy of the decision, and encourage the employee to respond.
7. The Lieutenant will forward, within one day, the Lieutenant's written decision and the employee's written disagreement to the Deputy Chief. (22.4.1e)
8. The Deputy Chief shall:
  - a. Acknowledge receipt of the written grievance by noting time, date, and person receiving the grievance;
  - b. Forward, within one day, the written grievance to the Chief of Police; and (22.4.1e)
  - c. Within 5 days of receiving the employee's written disagreement with previous decisions: (22.4.1e)
    - 1) Analyze the grievance and the previous decisions; and
    - 2) Prepare and submit a written decision to the employee.
9. The Employee will respond to the Deputy Chief, in writing, within 5 days, with agreement or disagreement. (22.4.1c)



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- a. If the employee does not respond, the Deputy Chief shall follow-up until there is a response, talk to the employee, give the employee another copy of the decision, and encourage the employee to respond.

10. The Chief of Police shall:

- a. Acknowledge receipt of the written grievance by noting time, date, and person receiving the grievance; and
- b. Within 5 days of receiving the employee's written disagreement with previous decisions: (22.4.1e)
  - 1) Analyze the grievance and the previous decisions; and
  - 2) Prepare and submit a written decision to the employee.

11. The Employee will respond to the Chief of Police, in writing, within 5 days, with agreement or disagreement. (22.4.1c)

- a. If the employee does not respond, the Chief of Police shall follow-up until there is a response, talk to the employee, give the employee another copy of the decision, and encourage the employee to respond.

12. If the employee responds with disagreement, the Chief of Police will, within one day of receiving the employee's written disagreement, submit the original written grievance with all written decisions to the City Manager. (22.4.1e)

13. The City Manager will:

- a. Acknowledge receipt of the written grievance by noting time, date, and person receiving the grievance; and
- b. Within 30 days of receiving the employee's written disagreement with previous decisions: (22.4.1e)
  - 1) Reject the grievance by noting rejection on the grievance and returning the package to the Chief of Police; or
  - 2) Accept the grievance; and
    - a) Analyze the grievance and the previous decisions; and
    - b) Prepare and submit a written decision to the Chief of Police, who will forward the written decision, within one day, to the employee.

14. If the City Manager accepts the grievance, the City Manager's decision is final.

15. If the City Manager rejects the grievance, the decision of the Chief of Police is final.

### **D. Annual Analysis of Grievances (25.1.3)**

- 1. The Deputy Chief shall analyze the grievances and the grievance procedure, even if there is an absence of reported grievances, and shall submit the analysis in a written report to the Chief of Police.



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Chapter 05 Rules of Conduct and Internal Affairs  
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Original Policy

### A. Policy

1. It is the policy of this Department that while employees of the Department may privately be in agreement with one side or the other in such litigation, an atmosphere of objectivity and impartiality in dealing with the parties must be maintained. Employees will not, for example, actively assist or provide information to one litigant and not extend the same assistance to the other.

### B. Definition

1. Increasingly, private litigation involves the Aberdeen Police Department. Private litigation, for purposes of this section refers to litigation between private parties where neither the Department nor any of its employees are principals. Litigation between two parties involved in a traffic collision which the Aberdeen Police Department had investigated is an example of the private litigation in which the Aberdeen Police Department could become involved.

### C. Guidelines

1. In instances when employees have been contacted by private litigants concerning matters in which the employee may have been officially involved, the employee is under no obligation to agree to an interview or to provide information. There is no prohibition, however, with granting interviews or providing information, but again, it must be done impartially and objectively.
2. Care should be taken to clearly distinguish the personal opinions of an employee from the official position or opinions of the Department. Employees should neither directly or indirectly give the impression that his personal opinions represent those of the Department.
3. Personnel receiving a summons to testify in civil litigation as a result of their employment will notify their supervisor in writing of the date, location and nature of that summons.



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Chapter 05 Rules of Conduct and Internal Affairs  
Section 09 Harassment, Discrimination, and Retaliation -  
Whistleblower Prohibition

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GO 20-026, 10/19/2020

Supersedes GO 14-060

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### A. Policy (26.1.3)

1. Incidents of retaliation, sexual harassment, discrimination, and/or harassment based on age, ancestry, color creed, marital status, mental or physical disability, pregnancy, national origin, race, religious affiliation, belief or opinion, sex, sexual orientation, or any other non-merit factor, are prohibited.
2. This policy shall apply in all situations where personnel interact with others, and:
  - a. The employee is acting as a representative of the Aberdeen Police Department
  - b. The employee is on duty or during work hours; or
  - c. Where the individual's actions or comments may be interpreted as those of this Department employees or the Aberdeen Police Department itself.
3. This Department has a zero tolerance for retaliation against whistleblowers:
  - a. Who make good faith complaints or disclosures of misconduct against another employee or volunteer;
  - b. Who report discrimination, harassment, or gender bias; or
  - c. Who are witnesses reporting, testifying, or supporting a complaint of discrimination, harassment or gender bias.
4. Violations will result in disciplinary action as appropriate, which may include termination.
5. This policy shall prevail in all matters of employee relations, including, but not limited to:
  - a. Opportunities for employment;
  - b. Promotion;
  - c. Transfer;
  - d. Education and Training;
  - e. Supervision;
  - f. Performance appraisals;
  - g. Internal investigations; and
  - h. The processes for discipline, demotion, and termination.

### B. Definitions

1. **Discrimination**
  - a. All forms of illegal prejudice;
  - b. Expressions of racial/ethnic/religious insults and epithets;
  - c. Gender based derogatory comments;
  - d. Sexual harassment; and
  - e. Retaliation against a complainant for filing a complaint of discrimination.
2. **Good Faith** – The reasonable belief that an employee of the Department has purposely committed a violation of departmental policy, procedures, rules, or laws.



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3. **Harass** - to disturb or irritate persistently.
  - a. Harassment may be present in varying degrees and is generally applied or defined by the individual or group affected.
  - b. The term “harass” is the most commonly applied term in a discriminatory manner; however, other terms, i.e., hound, badger, bother, pester, plague, bait, torment, etc. may easily be substituted.
  - c. Harassment may include but is not limited to:
    - 1) using words, phrases, or gestures which may be interpreted as derogatory or demeaning;
    - 2) posting/distributing literature, bulletins, cartoons, or other written material which may be interpreted as derogatory or demeaning;
    - 3) mimicking, imitating, or miming oral or physical characteristics considered stereotypical of individuals or groups of individuals which may be interpreted as derogatory or demeaning;
    - 4) participating in and/or encouraging any retaliatory acts directed at individuals or groups exercising these rights against such discriminatory acts;
    - 5) condoning any such activities; and
    - 6) retaliating against a complainant for complaining of being harassed.
4. **Retaliation** – Deliberate, purposeful actions or failures to act, directed against employees or volunteers that cause, or that could reasonably be expected to cause, physical harm, property damage, significant emotional stress, or otherwise negatively affect another person’s terms or conditions of employment or that could seriously impair the efficiency, safety or effectiveness of that person, this Department, or both. Such adverse actions may take many forms, including but not limited to:
  - a. Giving unfair evaluations;
  - b. Initiating a disciplinary action;
  - c. Giving excessive punishment for a disciplinary infraction;
  - d. Failing to back or assist another officer;
  - e. Giving unfavorable assignments;
  - f. Bullying;
  - g. Making persistent offensive comments;
  - h. Making threats;
  - i. Intimidating;
  - j. Making false accusations;
  - k. Isolating;
  - l. Ostracizing; or
  - m. Committing acts that malign or disparage an individual’s reputation.



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5. **Serious Acts of Misconduct** – Deliberate acts or failures to act that could reasonably form the basis for significant disciplinary action against an employee.
  - a. Such disciplinary action would be reasonably likely to adversely affect that person's terms or conditions of employment up to and including termination service.
6. **Sexual Harassment** - unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature when:
  - a. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
  - b. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
  - c. Such conduct has the purpose or effect of interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.
  - d. Sexual harassment need not necessarily involve a male supervisor and a female subordinate.
    - 1) It may also apply in reverse.
    - 2) Pressure can be directed by a person of either sex against a person of the opposite or same sex or from a co-worker or a supervisor.
  - e. The victim need not be the person harassed but could be anyone affected by the offensive conduct.
  - f. The following is a partial list of the types of activities which could be considered sexual harassment depending on the facts and circumstances:
    - 1) Unwanted or offensive physical touching;
    - 2) "Off color" jokes;
    - 3) Unwanted, unwelcome, and unsolicited propositions;
    - 4) Offensive language;
    - 5) Holding up to ridicule a member of one sex to others;
    - 6) The placement of sexually explicit material in the work areas, desks, etc.;
    - 7) Notes and other messages either signed or anonymous placed on bulletin boards, in lockers, in desks, etc.;
    - 8) The required wearing of particular types of clothing or the inference that wearing particular types of apparel will enhance one's career;
    - 9) Attempted transfer, demotion, dismissal, etc. after refusing or resisting sexual advances;
    - 10) Requesting or ordering employees to perform tasks which are not part of their job specifications, such as:
      - a) making coffee;
      - b) obtaining lunch; and





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- c) doing personal shopping for supervisors;
- 11) Demeaning comments or actions;
- 12) Unwanted, unwarranted, and unsolicited advances on- or off- duty, when such action relates to the employee-employer relationship; and
- 13) Non-verbal suggestive or insulting noises, leers, whistles, or gestures.

7. **Whistleblower** – an individual who exposes any kind of information or activity involving any serious acts of misconduct, violation of regulation, statute, contract or policy, or unethical behavior such as fraud or waste against the Department.

- a. The alleged misconduct may be a violation of a law, rule, regulation and/or a direct threat to public interest, such as fraud, health and safety violations, and corruption.

## C. Responsibilities

1. Persons in authority, e.g., supervisors, commanders, etc. who have knowledge of a retaliation, discrimination, harassment, or sexual harassment incident/situation will initiate action or ensure that the appropriate actions relative to such an incident are taken.
2. Failure to take the appropriate actions will result in disciplinary action.
3. Victims and/or persons who have knowledge of a retaliation, discrimination, harassment, or sexual harassment incident/situation are encouraged to initiate the appropriate action to address the situation.

## D. Reporting Retaliation, Discrimination and/or Harassment Situations (26.1.3)

1. Employees should promptly report incidents of perceived discrimination, harassment and/or retaliation.
2. The Employee shall submit a written statement of the complaint (Form #37) to the Supervisor, or if the alleged wrongdoer is the employee's supervisor, to the next person in the chain of command. The statement should include:
  - a. A statement of what took place;
  - b. Significant times, dates, and actions taken; and
  - c. An allegation of the wrongful act and harm done.

## E. Processing Complaints of Discrimination, Harassment and/or Retaliation

1. The Supervisor or other person to whom the complaint is submitted shall:
  - a. Acknowledge receipt of the written complaint by noting time, date, and person receiving the complaint;
  - b. Review the reporting procedure with the aggrieved employee and the accused employee's supervisors;
  - c. Initiate an immediate preliminary inquiry within 10 days, or sooner if circumstances require more immediate action; and
  - d. If the behavior complained of constitutes retaliation, discrimination, harassment and/or sexual harassment or other serious misconduct, the supervisor shall forward the complaint to the Deputy Chief or designee, who shall:



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- 1) Ensure that an investigation is conducted and, if appropriate, disciplinary actions are taken;
- 2) Ensure that the Internal Affairs investigator meets with the accused to prevent a potential continuing course of unwanted conduct;
  - a) The Internal Affairs investigator shall:
    - i. Advise the accused that if the alleged conduct/behavior is occurring, that it is not appropriate and must cease immediately; and
    - ii. Advise the accused not to commit any retaliatory acts;
- 3) Monitor personnel affected by the investigation to prevent continuation of the conduct in question, or retaliation for actions taken to resolve it;
- 4) Maintain personal contact with the victim to alleviate fear and to ensure that everything possible is being done to resolve the complaint;
- 5) Contact the victim at frequent intervals (no greater than 15 days) to inform of case progress and upon completion of the investigation its disposition; and
- 6) After disposition, make follow-up contact with the victim within 60 days, to ensure that there has not been continuation of improper conduct, threats of retaliation, or retaliation.



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Chapter	05	Rules of Conduct and Internal Affairs	GO 19-039, 08/15/2019
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## **A. Policy**

1. It is the intent of the Aberdeen Police Department to resolve administrative infractions and performance issues by fairly applying the appropriate disciplinary or non-disciplinary action.
2. The elements of the disciplinary system include counseling, training, and punitive actions in the interest of discipline.

## **B. Authorization Levels (26.1.5)**

1. All Supervisors are authorized to:
  - a. Administer verbal counseling;
  - b. Administer written counseling; and
  - c. Recommend and/or conduct remedial training.
2. Lieutenants and above are additionally authorized to:
  - a. Administer written reprimands;
  - b. Investigate complaints of employee misconduct, subject to review and approval of the Chief of Police;
  - c. Offer and impose summary punishment, upon review and approval of the Chief of Police;
  - d. Effect emergency suspension of employees; and
  - e. Rule complaints against officers as unfounded when a suitable investigation determines the complaint to be malicious, baseless, deliberately false, or frivolous.
    - 1) In such cases, the circumstances will be documented and forwarded to CID, with no further action taken.
3. The Chief of Police has:
  - a. Final authority for disciplinary action involving sworn personnel (within the requirements of the LEOBR), and Department civilian employees;
  - b. Authority to dismiss an employee from employment, or to suspend an employee without pay for longer than 30 days; and
  - c. Authority to administer any form or combination of discipline authorized by this manual and The City of Aberdeen, consistent with the LEOBR.
4. Documentation to the CID Supervisor
  - a. All verbal counseling shall be documented and submitted to the CID Supervisor.
  - b. All discipline, non-punitive and punitive, shall be submitted to the CID Supervisor.

## **C. Written Reprimand (26.1.4c)**

1. Criteria of a written reprimand includes but is not limited to the following:
  - a. Employee demonstrates a continuing pattern of behavior involving repeated mistakes, misconduct, transgressions, neglect of duty, or other violations of the Rules of Conduct;
  - b. The employee has deliberately or flagrantly violated a law, rule, regulation, procedure, or standards of conduct;



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- c. The employee's conduct impairs the achievement of the Department's mission or brings the Department into disrepute;
- d. The employee's conduct represents a continuing pattern of disregard for the rules, regulations, and standards of conduct required of police officers; and
- e. The employee received lesser applications of disciplinary action and had failed to correct the employee's conduct.

### 2. Procedure

- a. A supervisor shall prepare, in writing, specific examples of the employee's unsatisfactory performance or conduct *and* recommendations for improvement.
- b. Meet privately with the employee.
- c. Present the written notice or reprimand to the employee and read the document aloud to the employee.
- d. Give the employee the opportunity to discuss and address the issues.
- e. Define the actions that should be taken to improve the employee's performance or conduct.
- f. Have the employee sign and date the document.
- g. If the employee refuses to acknowledge receipt of the form, the person conducting the session shall write "Refused to Sign" on the employee's signature line.
- h. Give the employee a copy of the document.
- i. Submit the written reprimand to the Sr. Administrative Specialist for placement in the employee's personnel file.
- j. If unsatisfactory performance continues, this information may be included in the performance evaluation.

### D. Duties of Supervisors

- 1. Observe the conduct and appearance of officers and civilian employees under their supervision.
- 2. Detect those instances when corrective actions are warranted (remedial training, counseling, or written reprimand).
- 3. Determine the most effective methods of corrective action, utilizing their understanding of the personality traits of the personnel under their supervision.

### E. Suspension (26.3.7)

- 1. An officer may be relieved from duty by a supervisor.
  - a. The relief from duty may be a temporary administrative action pertaining to an employee's physical or psychological fitness for duty or an action pending disposition of an internal affairs investigation.
- 2. The supervisor shall notify his/her lieutenant; and the Chief of Police shall be notified through the chain-of-command.
- 3. The officer shall surrender to the Administrative Lieutenant or designee:
  - a. Department issued firearm;



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- b. Badge;
  - c. Aberdeen Police Department identification card;
  - d. Maryland police officer certification card; and
  - e. Assigned vehicle.
4. Where an officer's police powers are suspended for medical or psychological reasons, not associated with the disciplinary process, an emergency suspension review hearing is not required.
  - a. These cases shall be promptly reviewed by the Department Physician and, when necessary, referred to an appropriate specialist to obtain a fitness for duty evaluation.
5. The officer shall not exercise police authority until those powers have been restored by the authority of the Chief of Police.

### **F. Appealing Disciplinary Actions (26.1.6)**

1. Sworn employees shall use the process described in the [Law Enforcement Officers' Bill of Rights](#).

### **G. Suspension Review Hearing Board**

1. The Chief of Police shall arrange for the convening of an emergency suspension review hearing board in all cases relating to suspensions involving the disciplinary process.
2. The suspended employee shall be ordered to appear for the suspension review hearing to determine if the suspension shall be terminated or continued pending disposition of the charges(s).
3. The officer may waive the review hearing.
  - a. A waiver must be documented on Form 80 - Emergency Suspension/Waiver of Hearing and submitted to the Chief of Police or his designee prior to the review hearing.
4. The Review Board shall be comprised of three members, at least one of which shall be the same rank as the suspended employee.
5. The Board shall formulate recommendations to the Chief of Police regarding the emergency suspension.
6. The Board shall also consider whether other assignment of leave status alternatives should be considered.
7. At this hearing, the employee may:
  - a. Be accompanied by counsel;
  - b. Rebut the reason(s) given for the suspension;
  - c. Present mitigating testimony; and
  - d. Suggest alternatives to suspension.
8. The presenter of facts shall present information to the review board and shall make recommendations concerning the employee's leave status, temporary assignment during the period of suspension and/or whether the suspension should continue with or without pay.



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9. An emergency suspension of police powers without pay may only be imposed when the suspended employee has been charged with the commission of a felony.
10. The hearing shall be recorded.
11. At the conclusion of the hearing
  - a. The recording shall be forwarded to the CID Lieutenant for retention and inclusion in the investigative case file if any.
  - b. The commissioned officer conducting the review shall advise the employee that the suspension shall continue pending the Chief of Police's decision and that the employee shall be notified of the decision in writing.
12. The Chairman of the Review Board shall ensure that the report containing the Board's recommendations shall be completed and forwarded to the Chief of Police expeditiously.
13. After reviewing the Board's report the Chief of Police may concur, amend or reverse the recommendation.
14. When the decision has been made, a copy of a personnel order containing the details of the decision shall be issued and promptly delivered to the employee.
15. The original Review Board report, along with the Chief of Police's review of the decision, shall be placed in the Internal Affairs case file for retention.

### **H. Charges**

1. Charges may be preferred by the Chief of Police or a supervisor under his command. Notification of Charges (APD Form 87) shall be completed with only one charge on each sheet.
  - a. Each charge shall be supported by a reference to a rule of conduct or a policy or procedure in the Department manuals or to some other official order or directive of the Department.
  - b. Each charging document shall be numbered and charges referred to by their corresponding number in all related documents.
  - c. To the extent that specific language in this Chapter accurately describes the offense allegedly committed by an employee, that language should be used in all documents used to process a summary action and in any subsequent Personnel Orders.
  - d. Offenses not specifically cited in Section I should be described in the language of the particular procedure, directive, etc., violated.
  - e. Charges should describe only the offense committed; portions of the rule, procedure, or directive containing irrelevant or extraneous language shall not be cited.
2. All charges arising out of a single incident shall be disposed of in the same manner.

### **I. Administrative Hearing Board**

1. The facts of the case shall be reviewed in depth by the Chief of Police and a determination made by him whether to proceed with summary punishment or to defer the case to the hearing board.





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2. A hearing arising from administrative charges must commence promptly after the date of the order assigning the members of the hearing board.
3. After the initial hearing has been set, the date may only be postponed by the chairman of the hearing board on presentment of good and substantial reason by either party.

### **J. Summary Punishment**

1. Procedure
  - a. In all cases when an officer is charged with a violation of Department rules, policy, or procedure, such charges may be heard by a hearing board.
    - 1) If the Chief of Police considers the charge placed against one of his subordinates to be minor, he may allow the accused to elect to have these charges disposed of by summary punishment.
    - 2) In no instance, however, may the accused choose summary punishment unless the Chief of Police approves of such a course of action.
  - b. The authority to impose summary punishment charges the Chief of Police with the responsibility of exercising his authority in a fair and judicious manner.
  - c. The Chief of Police must ensure that the case investigator promptly provides sufficient information to make an appropriate disposition of the incident. The investigation should reveal:
    - 1) whether an offense was committed.
    - 2) whether the employee was involved in the offense.
    - 3) the disciplinary record of the employee.
    - 4) recommendations as to sustained or non-sustained findings.
  - d. Any decision, order or action taken as a result of summary punishment shall be accompanied by findings of fact.
    - 1) The findings shall consist of a concise statement of each issue in the case.
  - e. If the accused chooses to have his or her administrative charges resolved by a hearing board, he or she must make their choice within three days after he receives the Notification of Charges (APD Form 87 - front), and if he elects summary punishment, he shall complete the Waiver of Law Enforcement Officers Bill of Rights and Acceptance of Punishment (APD Form #87- reverse).
    - 1) The failure of the accused to select the hearing authority and to submit Form #87 within three days shall be considered his waiver of summary punishment.
2. Penalty Assessment Guide
  - a. The Chief of Police has established a Penalty Assessment Guide to ensure uniformity and objectivity in the assessment of penalties for summary punishment offenses,
  - b. Penalty ranges for such offenses are limited to a maximum of \$150 fine and/or suspension or loss of leave for three days.
    - 1) The guide will list all of the various offenses, along with the recommended penalty for each infraction.





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- c. The Penalty Assessment Guide provides the following categories of offenses and corresponding penalties:
- 1) **CATEGORY I** - Written Reprimand, Up to A \$50 Fine or Loss Of Leave/Suspension For One Day
    - a) **Insubordination** - Failure to follow chain of command
    - b) **Conformance to Laws**
      - 1) Violation of Traffic Laws On-Duty
      - 2) Violation of Traffic Laws Off-Duty
    - c) **Department Communications**
      - 1) Failure to submit required reports
      - 2) Late reports
      - 3) Use of Department telephone, or FAX machine for personal calls
      - 4) Unauthorized use of computer/internet services
    - d) **Reporting for Duty** - Failure to log On/Off and In/Out
    - e) **Personal Appearance** - Failure to maintain acceptable appearance
    - f) **Neglect of Duty**
      - 1) Punctuality (assignments, court, etc)
      - 2) Inattentiveness to Duty (watching TV, reading, games)
    - g) **Department Equipment**
      - 1) Failure to maintain Department Equipment
      - 2) Damage to Department Equipment
      - 3) Loss of Department Equipment
  - 2) **CATEGORY II** - \$50 To \$100 Fine Or Loss Of Leave/Suspension For Two Days
    - a) **Unbecoming Conduct** - Conduct On-Duty/Off-Duty
    - b) **Criticism** - Ridicule of APD/Other Agencies
    - c) **Secondary Employment** - Unapproved Secondary Employment
    - d) **Department Communications**
      - 1) Failure to maintain radio contact
      - 2) Inaccurate reports
    - e) **Courtesy**
      - 1) Rude/Discourteous/Argumentative
      - 2) Obscene Language/Gestures
    - f) **Identification** - Failure to furnish Name/I.D./Assignment
    - g) **Department Equipment** - Off-Duty Misuse of Vehicle



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- 3) **CATEGORY III** - \$100 To \$150 FINE, OR LOSS OF LEAVE/SUSPENSION FOR THREE DAYS
  - a) **Insubordination** - Failure to obey order
  - b) **Fictitious Illness or Injury Reports** - Abuse of sick leave
  - c) **Evidence Found and Recovered Property** - Failure to secure
  - d) **Suggestions Pertaining to Services** - Recommending product/professional service to public
  - e) **Requests for Assistance** - Failure to assist/advise public Intervening in a civil case
  - f) **Citizen Complaints** - Failure to accept complaint
  - g) **Neglect of Duty** - Sleeping on Duty
  - h) **Use of Alcoholic Beverages** - Failure to obtain permission to consume on duty
- 4) **HEARING BOARD** - Offenses Recommended for Review by A Hearing Board
  - a) **Associations** - Association with criminal element
  - b) **Immoral Conduct** - Moral turpitude
  - c) **Conformance to Laws**
    - 1) Violation of criminal laws on-duty
    - 2) Violation of criminal laws off-duty
    - 3) Perjury
    - 4) Driving while intoxicated
  - d) **Payment of Debts** - Refusal to pay debts
  - e) **Abuse of Position** - Using official position for personal/ financial gain
  - f) **Seeking or Accepting Gifts, Gratuities, and Bribes**
    - 1) Seeking or accepting Gifts/Food/Drink/Fee/Reward On-Duty
    - 2) Seeking or accepting Gifts/Food/Drink/Fee/Reward Off-Duty
    - 3) Seeking or Accepting Contributions On-Duty
    - 4) Seeking or Accepting Contributions Off-Duty
  - g) **Political Activity** - Unauthorized political conduct On-Duty/Off-Duty
  - h) **Labor Activities** - Job Action/Strike
  - i) **Department Communications**
    - 1) Failure to report criminal activity
    - 2) False reports
    - 3) Providing Department information to unauthorized parties



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- 4) **Interrogations** - Failure to comply with interrogations/polygraph/urine specimens/line-ups/other tests
- j) **Reporting for Duty**
  - 1) Unfit for duty
  - 2) Absent without Authorized Leave
- k) **Interference with Duty**
  - 1) Interfering with criminal/traffic cases
  - 2) Revealing identity of plainclothes/covert investigator
- l) **Abuse of Process/Withholding Evidence** - Withholding evidence or information
- m) **Evidence Found and Recovered Property** - Converting to own use  
Tampering/destruction of
- n) **Demonstration of Discrimination and Harassment:** (1.2.9c)
  - 1) An expression, in any form, of discrimination or prejudice, such as, but not limited to all forms of discrimination or prejudice, such as, but not limited to all forms of illegal prejudice, expressions of racial/ethnic/religious insults and epithets, gender based derogatory comments and sexual harassment. Retaliation against reporting is also covered.
- o) **Neglect of Duty** - Failure to take police/administrative action
- p) **USE OF ALCOHOLIC BEVERAGES:**
  - 1) Drinking On-Duty
  - 2) Authorized alcohol consumption, but consumed to excess
  - 3) Consuming alcohol in on-call status
  - 4) Possession of alcohol on Department premises
  - 5) Consuming alcohol beverages while operating Department vehicle
- q) **USE OF DRUGS:**
  - 1) Possession of CDS
- r) **TREATMENT OF PERSONS IN CUSTODY:**
  - 1) Mistreatment of prisoner
  - 2) Allowing escape of prisoner
- s) **USE OF FORCE:**
  - 1) Unnecessary or excessive
  - 2) Brutality
- t) **FIREARMS:**
  - 1) Discharge of Firearms Indiscriminate/Careless/ Display or Use



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u) INCOMPETENCE:

1) Performance of duties

- d. Supervisors should adhere to the penalties listed for each offense.
- 1) The guide is structured to take into account such factors as repeat offenders and the frequency of offenses committed by an individual.
  - 2) However, the Penalty Assessment Guide is just as its name implies, a guide, and not an absolute directory.
  - 3) If an employee has been charged with two violations of the same offense within one year, he should be subjected to the penalties of the next higher category or the case should be sent to a hearing board, whichever is appropriate.

3. Penalty Selection

- a. Once a decision is made, the Chief of Police or his designee shall properly complete the Notification of Charges (Form 87) including the specific charge and facts used to support that allegation.
- (1) A copy of the completed Form 87 shall be presented to the accused.
  - (2) At this time, the accused may be offered summary punishment or advised summary punishment is not appropriate and the case shall be heard by a hearing board.
- b. The accused is not compelled to accept summary punishment and penalty and may demand the case be heard by a hearing board.
- (1) The accused employee's decision shall be made according to policy contained in this subsection.
- c. If an officer is offered summary punishment and refuses:
- (1) The Chief may convene a hearing board of one or more members; and
  - (2) The hearing board has only the authority to recommend the sanctions permissible under summary punishment.
  - (3) If a single member hearing board is convened the member need not be of the same rank as the accused.
- d. In cases where summary punishment is not offered or where it is offered and refused, the case file and completed Notification of Charges (APD Form 87) shall be forwarded directly to the Department's Legal Advisor for processing and review.

4. Case Flow

- e. After the Chief of Police's disposition, the original case file, Notification of Charges/Waiver of Law Enforcement Officers Bill of Rights and Acceptance of Punishment (APD Form 87) shall be filed in the Internal Affairs case file.
- f. The Chief of Police shall prepare an appropriate order announcing the disciplinary action and designate dates of suspension or loss of leave in accordance with dates specified on Form 87.
- g. Records of Disciplinary Action of any case disposed of through summary punishment may be filed in the affected employee's personnel file without his consent.



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- h. After final disposition, the Chief of Police shall give a completed copy of Form 87 to the accused.

## **I. Hearing Board**

1. The rules and regulations in this subsection define policy for the imposition of discipline within the Department.
  - a. These rules and regulations are guides for handling disciplinary actions and generally should be followed.
  - b. In unusual situations not covered by these rules and regulations, or where strict adherence to these rules would work an injustice, deviations from the rules and regulations are permitted.
  - c. The hearing board chairman and the other members of the board should be flexible and should not apply these rules, regulations and rules of evidence mechanically.
2. Jurisdiction
  - a. Hearings shall be conducted pursuant to the Administrative Procedures Act as modified by the Law Enforcement Officers Bill of Rights.
  - b. Charges should describe only the offense committed; portions of the rule, procedure, or directive containing irrelevant or extraneous language shall not be cited.
  - c. Charges should be prepared as described in the example appearing in the subsection relating to summary punishment.
3. Organization
  - a. The chairman of the hearing board shall, be appointed by the Chief of Police.
    - (1) The composition of the hearing board may be drawn from the total uniformed complement of the Department, or from another agency with the approval of the chief of that other agency.
    - (2) The board shall be no less than three members, one of whom shall be of a rank equal to the accused.
    - (3) No member of the hearing board may have participated in the investigation or interrogation of the accused law enforcement officer.
  - b. When an employee has been offered summary punishment, but elects to have a hearing, the Chief of Police shall convene a one member or more hearing board.
    - (1) If a single member hearing board is convened, that member need not be of the same rank as the accused.
    - (2) The prosecutor for a single member hearing board shall be appointed by the Chief of Police.
4. Case Preparation
  - a. If the accused elects to have the case tried before a hearing board, the case file, including the Notification of Charges (APD Form 87) shall be forwarded to the Department Legal Advisor for review, with a recommendation from the Chief of Police to appoint a prosecutor.



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- (1) The investigating officer must not be recommended for prosecutor if he shall be a witness at the hearing. In every instance in which the recommended penalty is dismissal, the case shall be prosecuted in conjunction with the Department Legal Advisor.
- b. After reviewing the case file, the Department Legal Advisor may indicate that the facts contained in the investigation are insufficient to sustain the charge being filed against the accused, and so state the reasons for such insufficiency.
  - (1) The case file and a copy of the Legal Advisor's endorsement shall be maintained in the Internal Affairs file.
  - (2) In any instance when the Department Legal Advisor decides not to proceed with a case, the accused shall be notified by the Chief of Police of this decision.
- c. The Department Legal Advisor may, after reviewing the case file, find that, although sufficient merit exists for prosecution, additional information is needed to further prepare the case for the Hearing Board.
  - (1) In this instance, the case file with an endorsement by the Department Legal Advisor requesting supplementary information shall be returned through channels to the Chief of Police with an indication that it should be resubmitted when the investigation has been completed.
- d. When a case is reviewed by the Department Legal Advisor and considered sufficient for prosecution, the Legal Advisor shall forward the Notification of Charges to the Chief of Police or his designee for presentation to the employee.
  - (1) After the employee has signed the Notification of Charges, the Chief of Police or his designee shall provide the employee with a copy of each charge and forward a copy to the chairman of the hearing board.
  - (2) Notification of Charges shall not be presented to the employee until after they have been reviewed by the Legal Advisor.
- e. Upon receipt of the case from the Department Legal Advisor and the signed Notification of Charges from the Chief of Police or his designee; the Chief of Police shall by special order, appoint a prosecutor and hearing board.
  - (1) The special order accompanied by the case file and copy of the Notification of Charges (APD Form 87) shall be given to the prosecutor.
  - (2) A copy of the special order and Form 87 shall also be given to the accused.
- f. Neither the chairman, nor the members of the hearing board, may have access to, be given a copy of, nor in any other way be apprised of the contents of the investigative file prior to the commencement of the hearing.
  - (1) Hearing board members shall be privileged only to information contained in the Notification of Charges (APD Form 87), which shall be forwarded to them by the permanent chairman of the hearing board.
  - (2) When the permanent hearing board chairman elects not to participate in a hearing, he shall forward his copy of the Notification of Charges to the appointed chairman of the hearing board.





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- (3) However, the accused shall be furnished with a copy of the investigatory file, excluding the identity of confidential sources and recommendations as to charges, disposition or punishment, not less than ten days before any hearing if the officer and the officer's representative agree:
          - (a) to execute a confidentiality agreement with the law enforcement agency to not disclose any of the material contained in the record for any purpose other than to defend the officer; and
          - (b) to pay any reasonable charge for the cost of reproducing the material involved.
  - g. The following fee schedule has been set for the reproduction of materials for use by the accused:
    - (1) Transcribe recordings.....\$4.50 per page;
    - (2) Photocopy existing documents .....\$.50 per page;
    - (3) Duplicate cassette tape recordings (both sides included) .....\$5.00 per tape;
    - (4) Duplicate CD, DVD, or other recordings .....\$7.00 per disc or unit.
  - h. Fees collected for the aforementioned reproductions must be forwarded to the Finance Office of the City of Aberdeen for deposit in the general fund.
  - i. When the hearing is concluded, the prosecutor shall deliver the case file to the Chief of Police.

5. Hearing Procedures

  - a. When the permanent chairman of the hearing board has received from the Department Legal Advisor a memorandum approving prosecution, he shall act promptly to select a hearing board and shall appoint one member of that board as its chairman.
  - b. Both prosecution and defense must exchange the names of all witnesses to be called and a copy of all documents and any other evidence to be used at least ten days in advance of the hearing date.
    - (1) To facilitate this exchange, the chairman of the hearing board shall complete the Notification of Hearing (APD Form 84), and attach to it a copy of Notification of Evidence and Document Receipt (APD Form 88).
    - (2) Oral statements or tape recorded interviews of witnesses to be called at the hearing shall be listed on Form 61 and made available to the other party, upon request, at least ten days in advance of the hearing.
  - c. The chairman of the hearing board shall forward copies of the Notification of Hearing (APD Form 84) and Notification of Evidence/Document Receipt (APD Form 88), to both the prosecutor and to the Chief of Police for service on the accused at least fifteen days prior to the hearing date.
  - d. Copies of the completed Form 88 and copies of all documents and items listed therein shall be delivered by the prosecution and defense to each other and each shall certify delivery of the material by signing the Certification Section of the Form 88.





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- (1) If an item of evidence cannot be duplicated, the other party shall be given the right to examine it at a time mutually convenient to both parties.
- (2) The parties, by agreement, may extend the time for exchanging exhibits.
- (3) The prosecution and defense shall return a completed copy of Form 88 to the chairman at least ten days prior to the hearing date.
- (4) Failure to exchange the required information, documents and other evidence or to return the required forms to the chairman within the specified time without good and substantial reason may result in evidence being excluded.
- e. It shall be the responsibility of the accused to contact the chairman of the hearing board if he does not completely understand the information contained on the Notification of Hearing form, or the Notification of Evidence/Document Receipt Form.
- f. Postponements shall be made by the hearing board chairman and all requests shall be directed to him.
- g. Amending Charges - At any time before the verdict, the hearing board chairman may grant a motion to amend charges to conform to the evidence or new charges to be filed.
  - (1) In either case, the accused, if requested, shall be granted a continuance to prepare for the amended or new charges.
- h. The chairman of the hearing board shall administer an oath to witnesses who shall testify at the hearing.
  - (1) He may also issue summonses (APD Form 83) to compel the attendance and testimony of witnesses, and the production of books, paper, records and documents as may be relevant or material.
  - (2) These summonses may be served in accordance with the Maryland Rules of Procedure pertaining to service of process issued by a Court, without cost. Whenever possible, Department personnel shall serve such summonses according to Department procedures.
  - (3) Either party may request the chairman of the hearing board to issue a summons.
  - (4) The acknowledgment of the summons shall be returned to the chairman of the hearing board and be made a part of the case file.
- i. Preliminary Motions
  - (1) All preliminary motions shall be filed with the chairman at least ten days (excluding weekends and holidays) before the hearing date.
  - (2) The parties must respond to these motions in writing within seven days of the date received.
  - (3) The chairman, in consultation with other members of the board, shall rule on the motion before or at the hearing.
  - (4) Absent a showing of good and substantial reason, preliminary motions shall not be considered on or after the hearing date.
  - (5) The chairman in his discretion shall decide on a continuance requested as a result of board rulings on preliminary motions.



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- j. Plea Bargaining
  - (1) The prosecutor may engage in plea bargaining at any time prior to or during a hearing.
    - (a) If a plea bargain agreement is reached, approval shall be obtained from the Chief of Police and the prosecutor shall prepare the Waiver of Rights/Acceptance of Punishment portion of the Form 87 acknowledging the waiver of rights and acceptance of punishment as described.
    - (b) The prosecutor shall then notify the hearing board chairman so that further proceedings may be canceled and shall sign and forward the Form 87 to the Chief of Police.
    - (c) The Chief of Police shall then sign and process the Form 87 following procedures outlined in this chapter.
- k. If the accused employee expresses a desire to plead guilty and proceed on a statement of facts, but desires the hearing board to decide the penalty, the prosecutor shall notify the hearing board chairman as to that fact.
  - (1) If time permits, the chairman of the hearing board shall notify nonessential witnesses that they shall no longer be required to testify.
  - (2) The hearing board shall then convene to hear the statement of facts, receive the guilty plea, and conduct the penalty phase of the proceeding.
- l. The hearing shall be conducted in accordance with the procedures set forth on Disciplinary Hearing Procedures Form (APD Form 89).
- m. The chairman conducting the hearing shall administer oaths or affirmations and examine any individual under oath concerning the subject of any hearing conducted pursuant to these procedures.
- n. Cases presented to a hearing board are administrative proceedings and as such are not subject to the same rules of evidence which govern the conduct of criminal proceedings.
  - (1) Although testimony must bear only on facts concerning the instant case, the restrictions applicable to hearsay evidence, written statements, and other forms of evidence in criminal actions, do not apply to administrative hearings.
- o. Evidence which possesses probative value, commonly accepted by reasonable and prudent men in the conduct of their affairs, shall be admissible and shall be given probative effect.
  - (1) The hearing board shall give effect to the rules of privilege recognized by law and shall exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence.
  - (2) All records and documents which any party desires to use shall be offered and be made a part of the record.
  - (3) Documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference.
- p. Every party has the right to cross examine witnesses who testify, and may submit rebuttal evidence.



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- q. The hearing board may take notice of judicially cognizable facts and of general, technical, and scientific facts within its specialized knowledge.
    - (1) Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material so noticed, and they shall be afforded an opportunity and reasonable time to contest the facts so noticed.
    - (2) A hearing board may use its experience, technical competence, and specialized knowledge in evaluating the evidence presented.
  - r. An administrative hearing is not a judicial proceeding and requires, on appeal, only that the Department's findings be supported by competent, material and substantial evidence and that the action of the board is not arbitrary, capricious or illegal.
    - (1) A majority of the board shall decide the verdict on each charge and any order or action taken as a result of the hearing shall be in writing and shall be accompanied by findings of fact.
    - (2) The findings shall consist of a concise statement of each issue in the case. A finding of not guilty terminates the action.
    - (3) If a finding of guilt is made, the hearing board shall reconvene the hearing, receive evidence of the employee's past job performance, matters of extenuation and mitigation and other relevant information and recommend a penalty to the Chief of Police.
    - (4) The prosecutor shall be responsible for providing the accused personnel files to the chairman for board consideration.
    - (5) The findings and conclusion and the written recommendations for action shall be recorded on a Disciplinary Hearing Procedures Form (APD Form 89) and a copy shall be delivered or mailed promptly to the law enforcement officer. In the case of multiple charges, a separate Form 89 shall be completed for each charge.
  - s. The chairman of the hearing board shall keep an official record of each hearing, which shall become a part of the original case file.
    - (1) The record shall include testimony, exhibits, the exact times the hearing was convened and terminated and the exact times of the beginning and termination of each recess taken during the hearing.
    - (2) The chairman of the hearing board is also responsible for tape recording all hearings.
    - (3) The tapes shall become a permanent part of the record.
  - t. No firearms shall be permitted in the hearing board room.
6. Disposition
- a. In any proceeding before a hearing board, the accused may be found not guilty on any specified charge and informed of the decision or he may be found guilty on any specified charge and informed of the sentence recommended.
7. Disciplinary Recommendations (1.2.9c)



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- a. After a finding of guilt, the hearing board may review the accused personnel file and thereafter recommend penalties as it considers appropriate under the circumstances, including but not limited to demotion, dismissal, transfer, loss of pay, reassignment, or other similar action which would be considered punitive.
    - (1) A hearing board convened because the accused refused summary punishment may recommend only those penalties permitted for summary punishment.
  - b. If the decision of the hearing board is not unanimous, in either the verdict or the penalty, the dissenting member may, but is not required to, submit a minority report expressing his views.
    - (1) If the dissenting member elects to submit a minority report, it shall be submitted to the board chairman, who shall forward it along with the hearing board report.
  - c. If the Chief of Police is an eyewitness to the incident which led to the charges being placed, the decision of the hearing board, both as to findings of fact and punishment is final. This decision may only be appealed to the Circuit Court.
8. Remedial Training
- a. Remedial in-service training may be included as part of a hearing board recommendation for an employee found guilty of violating Department policies and procedures.
  - b. Remedial in-service training shall be included as part of a hearing board recommendation for an employee found guilty of violating Department policy and procedures concerning discrimination or harassment incidents, except where termination is recommended by the board and imposed by the Chief of Police.
9. Case Flow
- a. After adjudication, and upon completion and signing by the board members of Department administrative hearing board reports, the reports are to be forwarded in the following manner:
    - (1) Department one-man administrative hearing board reports are to be promptly forwarded directly to the Chief of Police without further endorsement.
    - (2) Department three-man administrative hearing board reports are to be forwarded directly to the Department Legal Advisor without further endorsement, where they shall be reviewed for legal sufficiency. Upon completion of this review, the Legal Advisor shall promptly forward the reports directly to the Chief of Police.
    - (3) The Chief of Police shall ensure that involved Department personnel and counsel of record are forwarded a copy of the administrative hearing board report.
  - b. After the Chief of Police has reviewed the board's recommendation, he shall record the final disposition on Form 89.
    - (1) In cases in which the disposition is "Not Guilty," the Chief of Police shall place the original copy of Form 89 and all exhibits directly to the Internal Affairs file.
    - (2) In cases in which the disposition is "Guilty," the Chief of Police shall make the following distribution:
      - (a) The original copy of Forms 87 and 89 and all exhibits to Internal Affairs file and an appropriate Personnel Order shall be prepared.



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(b) One copy of Forms 87 and 89 shall be given to the convicted employee.

### 10. Review Procedure

- a. The board's recommendation for penalty is not binding on the Chief of Police.
- b. Within thirty days after receiving the hearing board's recommendation, the Chief of Police shall review the findings and recommendation, and indicate his concurrence or non-concurrence on the Form 89.
  - (1) Reasons for non-concurrence must be explained under the caption "Remarks" on the form.
  - (2) The Chief of Police's decision is binding and may be appealed only to the courts. Before the Chief of Police may increase the recommended penalty of the hearing board, he personally shall review the entire record of the hearing board proceedings, shall give the law enforcement officer an opportunity to be heard, and shall enter in writing on Form 89 the reasons for increasing the penalty.
- c. Appeal from decisions rendered in accordance with the Law Enforcement Officers' Bill of Rights shall be taken to the Circuit Court pursuant to the Maryland Rules of Procedure, Chapter 1100, Rule B-2, Annotated Code of Maryland.
  - (1) Any party aggrieved by a decision of a court under this Section may appeal to the Court of Special Appeals.
  - (2) For the purpose of appeals to the Circuit Court the final action shall be the date of the Chief of Police's decision on the hearing board's recommendations.

## J. Waiver of Law Enforcement Officers' Bill of Rights

### 1. Defined

When a police employee is charged with a violation of Department rules, policy, or procedure, and it is inappropriate to dispose of such case by summary punishment, or a plea agreement has been reached after the appointment of a hearing board, he may waive all rights afforded him by the Law Enforcement Officers' Bill of Rights.

Specifically, the employee by this waiver, chooses to accept both the Department's assessment of his culpability and penalty without the right to appeal either.

### 2. Procedure

- a. When the facts in the case are not disputed by the employee, and it would be to the mutual benefit of the employee and the Department to expeditiously dispose of the charges, the Chief of Police shall establish an appropriate penalty.
- b. The Chief of Police shall present the employee with the Waiver of Law Enforcement Officers' Bill of Rights and Acceptance of Punishment (APD Form 87), stating the specific charge and the recommended penalty.
  - (1) If the penalty includes suspension or loss of leave, the specific dates must be stated.
  - (2) The Chief of Police shall then advise the employee that in this case, the process is an appropriate way of dealing with the charges, advise him of the penalty, and ask him if he chooses to accept this option.





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- (3) The employee does not have to accept this option and may demand a hearing before the hearing board.

### 3. Case Flow

- a. Any decision, order, or action taken as a result of a waiver of rights shall be accompanied by a finding of fact; which shall consist of a concise statement of each issue in the case.
- b. After the final disposition, the Chief of Police shall place the original case file with the original copy of the Notification of Charges/Waiver of Law Enforcement Officers Bill of Rights and Acceptance of Punishment (APD Form 87) in the Internal Affairs file.
  - (1) The Chief of Police shall prepare a Personnel Order announcing the disciplinary action.
  - (2) The Personnel Order shall designate dates of suspension or loss of leave in accordance with the dates specified on the Form 87.
  - (3) The Personnel Order, a copy of the Notification of Charges/Waiver of Law Enforcement Officers' Bill of Rights and Acceptance of Punishment Form shall be filed in the law enforcement officer's personnel file.
- c. Records of disciplinary action of any case disposed of through a waiver of rights may be filed in the affected employee's personnel file without his consent.

## K. Disciplinary Procedures for Probationary Officers

1. Complaint processing, investigations, and disciplinary action involving probationary officers resulting from allegations of brutality shall be administered in accordance with Section III, this Section, and the Law Enforcement Officers' Bill of Rights.
  - a. All other complaint processing, investigations, and disciplinary action involving probationary officers shall be in accordance with Section III and this subsection without regard for the provisions of the Law Enforcement Officers' Bill of Rights.
2. Procedure
  - a. When a probationary officer is the subject of an internal investigation, the Chief of Police shall decide, based on all available evidence, (including, but not limited to investigative reports and endorsements, interviews and interrogations with the probationary officer, detailed written reports by the probationary officer, witness accounts, etc.) whether the probationary officer should or should not be disciplined for the alleged misconduct and advise the officer of his decision.
  - b. The Chief of Police shall then consider the penalty and may impose any penalty he feels appropriate under the circumstances, including, but not limited to, dismissal, suspension, transfer, loss of pay, loss of regular leave, or other similar action.
  - c. The Chief of Police or designee shall complete a Probationary Officer Record of Disciplinary Action (APD Form 90) specifying the particular charge, as well as the facts used to substantiate the charge.
    - (1) The Chief of Police shall then contact the accused giving him a copy of Form 90 and advising him of the penalty.



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3. Disposition
  - a. Any decision, order, or action taken as a result of disciplinary action involving a probationary officer shall be accompanied by a brief resume of the facts.
  - b. The resume shall consist of a concise statement of each issue in the case.
4. Case Flow
  - a. In cases where the probationary officer is not disciplined, the case file shall be filed in the Internal Affairs File only.
  - b. In cases where the probationary officer is disciplined, the Chief of Police shall prepare an appropriate Personnel Order and designate the effective dates of suspension or loss of leave.
  - c. The Chief of police shall give a copy of the completed Form 90 to the accused and place a copy of the Personnel Order in the affected employees personnel file.
5. Confidentiality
  - a. The confidentiality guidelines set forth in Chapter 5; Section III shall be followed with respect to disciplinary procedures for probationary officers.

### **L. Form Titles**

The following forms, reports, and memos shall be used, appropriately, to administer Department disciplinary action:

1. Complaint Against Personnel Report (Form 75 - front);
2. Complaint of Brutality (Form 75- back);
3. Notification of Complaint/Waiver of Rights (Form 79);
4. Investigative Report (detailed report format) and related endorsements;
  - a. Accused employee;
  - b. Investigator; and
  - c. Operations Lieutenant or supervisor;
5. Witnesses' statements;
6. Explanation of "Miranda" Rights (Form 12);
7. Notification of Charges/Waiver of Law Enforcement Officers Bill of Rights and Acceptance of Punishment Form 87);
8. Memorandum to be disseminated by the Department Legal Advisor approving prosecution and designating a prosecutor;
9. Memorandum to be disseminated by the permanent hearing board chairman designating the hearing board members;
10. Notification of Hearing (Form 83);
11. Notification of Evidence/Document Receipt Form (Form 88);
12. Disciplinary Hearing Procedures (Form 89);
13. Probationary Officer Record of Disciplinary Action (Form 90); and/or
14. Witness Summons/*Duces Tecum* (Form 85).





# The Aberdeen Police Department Policies & Procedures Manual



Chapter 05 Rules of Conduct and Internal Affairs  
Section 11 Bias Policing

GO 20-005, 02/06/2020  
Supersedes GO 18-072

## A. Policy

1. It is the policy of the Aberdeen Police Department and the responsibility of all employees
  - a. To protect the rights of all individuals regardless of race, religious belief, gender, sexual orientation, ethnicity, or economic status;
  - b. To treat all individuals with dignity, equality and fairness, regardless of race, religious belief, gender, sexual orientation, ethnicity, or economic status; and
  - c. To ensure that all official actions where an individual's freedom to move about is hindered is based upon reasonable suspicion or probable cause.
2. Officers are prohibited from any biased policing in traffic contacts, field contacts, and in asset seizure and forfeiture efforts. (1.2.9a)
3. This policy does not prevent officers from relying upon race as a part of a description where specific suspect is sought.

## B. Definition

1. Biased Policing – the selection of an individual(s) for enforcement action based whole or in part on a trait common to a group, without actionable intelligence to support consideration of that trait.
  - a. This includes, but is not limited to: race, ethnic background, national origin, gender, sexual orientation/identity, religion, economic status, age, cultural group, or any other identifiable characteristics.

## C. Justifiable Searches & Seizures

1. Investigative detentions, traffic stops, arrests, searches, and property seizures by officers will be based on a standard of reasonable suspicion or probable cause.
2. Officers must be able to articulate specific facts and circumstances that support reasonable suspicion or probable cause for investigative detentions, traffic stops, arrests, nonconsensual searches, and property seizures.

## D. Supervisors Responsibility

1. Supervisors shall ensure that all personnel in their command are familiar with the content of this policy and are operating in compliance with this policy.

## E. Corrective Action Required

1. Violations of this policy, or portions of this policy, shall result in counseling, remedial training and/or disciplinary action described in *Chapter 5.04 Disciplinary Procedures*.

## F. Training (1.2.9b)

1. The Training Coordinator is responsible for ensuring that affected personnel receive:
  - a. Initial instruction on the prohibition against bias-based profiling; and
  - b. Annual training to reinforce previous training and to develop new skills to enhance police-citizen contacts.
2. The Department's training program shall include biased policing issues and any legal updates.



## The Aberdeen Police Department Policies & Procedures Manual



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Chapter 05 Rules of Conduct and Internal Affairs  
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GO 20-005, 02/06/2020  
Supersedes GO 18-072

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### **G. Annual Report (1.2.9c)**

1. The Patrol Commander shall prepare for the Chief of Police a documented annual administrative review of agency practices including citizen concerns and any corrective measures taken.
  - a. The review should indicate whether policy, training, equipment, or disciplinary issues should be addressed.



# The Aberdeen Police Department Policies & Procedures Manual



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Chapter 05 Rules of Conduct and Internal Affairs  
Section 12 Personnel Early Identification System (PEIS)

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GO 13-041, 10/28/13

## **A. Policy**

1. The Personnel Early Identification System (PEIS)
  - a. Identifies Department employees who may need assistance to correct their performance, and
  - b. Offers the employees another opportunity to meet the Department's vision and mission statements.

## **B. Responsibilities**

1. The CID Lieutenant will maintain the PEIS.
2. The CID Lieutenant will initiate an employee review when an employee has accumulated 3 or more written incidents within 12 months. (35.1.9b) (35.1.9c)

## **C. Targeted Incidents (35.1.9a)**

1. Counseling Records
2. Written Reprimands
3. Internal Investigations

## **D. Corporals, Sergeants, and Civilian Supervisors Responsibilities (35.1.9f)**

1. Supervisors will identify employee incidents which qualify as possible targeted incident performance issues and
2. Will notify their Division Lieutenants about the incidents.

## **E. Remedial Action (35.1.9g)**

1. The Lieutenant, the Deputy Chief, and the Chief of Police will meet with the employee to discuss the employee's performance and the targeted incidents.
2. The Chief of Police will determine courses of remedial action which may include but are not limited to
  - a. No action;
  - b. Informal counseling and informal monitoring by employee's raters;
  - c. Formal counseling or corrective actions;
  - d. Mandatory remedial or additional training designed to improve employees' skills;
  - e. Voluntary or mandatory referral for professional counseling (35.1.9h); and/or
  - f. Reassignment.

## **F. Evaluation of the System (35.1.9e)**

1. The CID Supervisor will write an annual evaluation on the system's effectiveness of the PEIS, and may propose changes and improvements.
2. The Evaluation will be copied to Division Commanders and submitted to the Chief of Police through the Deputy Chief.



# The Aberdeen Police Department Policies & Procedures Manual



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Chapter 05 Rules of Conduct and IA  
Section 13 Social Media and Social Networking

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GO 16-001, 01/05/2016  
New Policy

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## A. Policy

1. This Department endorses the secure use of social media to
  - a. enhance communication, collaboration, and information exchange;
  - b. streamline processes; and
  - c. foster productivity.
2. This policy outlines expectations of sworn and non-sworn employees pertaining to their use of social media and social networking and the direct effect such use has upon the reputation and perception of this Department.
3. Employees should consider the possible adverse consequences of Internet postings, such as future employment, cross examinations in criminal cases and public as well as private embarrassment.
4. Employees should be aware that privacy settings and social media sites are constantly in flux, and they should never assume that personal information posted on such sites is protected.
5. Any online actions by a Department employee that detract from the mission of the Department, or reflect negatively on a sworn officer's position, will be viewed as a direct violation of this policy.

## B. Free Speech

1. As public employees, Department personnel are cautioned that speech, both on and off duty, made pursuant to their official duties—that is, that owes its existence to the employee's professional duties and responsibilities—may not be protected speech under the First Amendment and may form the basis for discipline if deemed detrimental to the Department.
2. Employees should assume their speech and related activity on social media sites will reflect upon their office and this Department.
3. Engaging in prohibited speech noted herein may provide grounds for undermining or impeaching an employee's testimony in criminal or civil proceedings.
4. Employees are subject to discipline up to and including termination for violations contained in this policy.

## C. Rules

1. By virtue of their position, police officers shall be held to a higher standard than general members of the public and their online activities should reflect such professional expectations and standards.
2. Employees shall not use any form of social media or social networking, including Facebook, Twitter, MySpace, LinkedIn, Foursquare, Gowalla, Police Pulse, The Squad Room, YouTube, Usenet groups, online forums, message boards or bulletin boards, blogs, and other similarly developed formats, in any way so as to tarnish the Department's reputation.
3. Employees shall not engage in any online activity that has the effect of diminishing the public's trust and/or confidence in the Department or in any way will hinder the efforts of the Department to fulfill our mission.



## The Aberdeen Police Department Policies & Procedures Manual



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Chapter 05 Rules of Conduct and IA  
Section 13 Social Media and Social Networking

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GO 16-001, 01/05/2016  
New Policy

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### **D. Definitions**

1. Avatar – a computer user's representation of himself/herself or alter ego.
2. Blog – A series of entries, either written by one person or a group of people, to an online journal, usually posted in chronological order, like a diary. Blogs can allow comments to entries or not.
3. Blogging – to read, write, or edit a shared on-line journal. Blogging can also encompass the act of commenting -- and engaging with other commenters -- on any blog, including one operated by a third party.
4. Comments – responses to a blog post, news article, social media entry or other social networking post.
5. Commenting – the act of creating and posting a response to a blog post, news article, social media entry or other social networking post. Commenting can also entail the act of posting an original composition to an unrelated post or article.
6. Forum – an online discussion site.
7. Handle – the name of one's online identity that is used most frequently. It can also be the name of one's Twitter identity.
8. Identity – An online identity, internet identity or internet persona that a social networking user establishes. This can be a real name, alias, a pseudonym or a creative description.
9. Internet – a computer network consisting of a worldwide network of computer networks that use the TCP/IP network.
10. Internet Sites – Web sites where members of that site can create profiles, electronically gather to share information, post photos and videos, post comments, and socialize with others using various types of technologies.
11. Mobile Social Networking – is social networking using a mobile phone or other cellular based device protocols to facilitate data transmission and exchange.
12. On-Duty – Time frame which the employee, sworn or non-sworn, is operating in their official capacity for the Aberdeen Police Department and receiving compensation for the same.
13. Page – The specific portion of a website where content is displayed, and managed by an individual or individual with administrator rights.
14. Post – an item inserted to a blog or an entry to any type of computerized bulletin board or forum.
15. Posting – the act of creating, uploading, editing or adding to any social media outlet. This includes text, photographs, audio, video or any other multimedia file.
16. Profile – Information that a user provides about themselves on an internet site.
17. Social Media – a variety of online sources that allow people to communicate, share information, share photos, share videos, share audio, and exchange text and other multimedia files with others via some form of online or cellular network platform.
18. Social Networking – Using such internet or mobile formats as Facebook, Twitter, MySpace, LinkedIn, Foursquare, Gowalla Police Pulse, The Squad Room, You-Tube, usenet groups,



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GO 16-001, 01/05/2016

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online forums, message boards or bulletin boards, blogs, and other similarly developed formats, to communicate with others using the same groups while also networking with other users based upon similar interests, geographical location, skills, occupation, ideology, beliefs, etc.

19. Speech – Expression or communication of thoughts or opinions in spoken words, in writing, by expressive conduct, symbolism, photographs, videotape, or other related forms of communication.
20. User Name – the name provided by the participant during the registration process associated with a website that will be displayed publicly on the site.
21. World Wide Web – computer network consisting of a collection of internet sites that offer text and graphics and sound and animation resources through the hypertext transfer protocol.

### **E. Department Use of Social Media**

#### **1. Department-Sanctioned Presence**

- a. Determine strategy
  - 1) Where possible, each social media page shall include an introductory statement clearly specifying the purpose and scope of the Department's presence on the website.
- b. Where possible, the page(s) should link to the Department's official website.
- c. All Department social media sites or pages shall be approved by the Chief of Police or his designee.
- d. Any social media utilized by the Department will have Departmental contact information made available to the public with the notice that such media is maintained and monitored by the Department and all content on the site is subject to public disclosure.
- e. Social media pages shall advise:
  - 1) "Opinions, statements, and/or comments expressed by visitors are not the opinions of the Aberdeen Police Department and the Department reserves the right to remove any inappropriate material, to include; obscenities, off-topic comments and personal attacks."
- f. Social media content shall adhere to applicable laws, regulations, and policies including both Department policies and City of Aberdeen policies.

#### **2. Department-Sanctioned Use**

- a. Department personnel representing the Department via social media outlets shall:
  - 1) Conduct themselves at all times as representatives of the Department and adhere to all Department standards of conduct.
  - 2) Identify themselves as a member/employee of the Department.
  - 3) Not make statements about the guilt or innocence of any suspect or arrestee, or comments concerning pending prosecutions, nor post, transmit, or otherwise disseminate confidential information, including photographs or videos related to Department training, activities or work-related assignments.



## The Aberdeen Police Department Policies & Procedures Manual



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- 4) Not conduct political activities or private business.
- 5) Observe and abide by all copyright, trademark, and service mark restrictions in posting materials to electronic media.

### 3. Potential Uses

- a. Social media is a valuable investigative tool when seeking evidence or information about:
  - 1) Missing persons;
  - 2) Wanted persons;
  - 3) Gang participation;
  - 4) General crime information;
  - 5) Photos or videos of a crime posted by the suspect or witness.
- b. Social media can be used for community outreach and engagement by:
  - 1) Providing crime prevention tips;
  - 2) Offering online-reporting opportunities;
  - 3) Sharing crime maps and data;
  - 4) Soliciting tips about unsolved crimes.
- c. Social media can be used to make time-sensitive notifications related to:
  - 1) Road closures;
  - 2) Special events;
  - 3) Missing or endangered persons;
  - 4) Accidents and/or crime scenes where the public may be affected.
- d. Social media may be used for:
  - 1) Recruiting;
  - 2) Advertising employment positions;
  - 3) Publicizing volunteer opportunities.

### F. Personal Use of Social Media

1. Employees are free to express themselves as private citizens on social media sites to the degree that their speech does not impair working relationships of this Department for which loyalty and confidentiality are important, impede the performance of duties, impair discipline and harmony among coworkers, or negatively affect the public perception of the Department.
2. Employees, who choose to maintain or participate in social media or social networking platforms while off-duty, shall conduct themselves with professionalism and in such a manner that will not reflect negatively upon the Department or its mission. In the course of operating or participating in such venues, the following rules shall apply:
  - a. For safety and security reasons, employees are cautioned not to disclose their employment with this Department.





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- b. Employees will be held responsible for the content that appears on their maintained social media or social networking sites and will be obligated to remove any posting or material contributed by others that reflects negatively upon the Department.
  - c. Weaponry, both Department-owned and/or personally-owned but carried on duty, shall not be displayed or referenced to, in any multimedia format, on social media or social networking sites if such displays or depictions promote or glorify violence.
- 3. Employees may be subject to civil litigation for:
  - a. Publishing or posting false information that harms the reputation of another person, group, or organization (defamation);
  - b. Publishing or posting private facts and personal information that has not been previously revealed to the public, is not of public concern, and would be offensive to a reasonable person;
  - c. Using someone else's name, likeness, or other personal attributes without that person's permission for an exploitive purpose; or
- 4. Publishing the creative work of another, trademarks, or certain confidential business information without the permission of the owner.

### **G. Prohibitions**

- 1. Employees are prohibited from using Department computers or cell phones/devices for any unauthorized purpose.
- 2. Employees are prohibited from using any social media or social networking platform while on-duty, unless permission is granted for investigative or public information purposes.
- 3. Employees are prohibited from maintaining internet or other digital content that:
  - a. Reflects unfavorably on the Aberdeen Police Department or its employees;
  - b. Could reasonably be interpreted to express the official position of this Department unless specifically directed by the Chief of Police or designee;
  - c. Contains a reference to the employee's affiliation with the Aberdeen Police Department and which contains unprofessional, unbecoming or illegal content including, but not limited to, lewd sexual conduct, references to excessive alcohol consumption or similar behaviors;
  - d. Could reasonably be interpreted as adversely affecting this Department morale, discipline, operations, employee safety, or public perception; or
  - e. Contains any recording, including images, obtained while in the performance of duty while on duty with the Aberdeen Police Department without the express consent of the Chief of Police or designee.
- 4. Employees are prohibited from posting, or in any other way broadcasting, or disseminating information on the internet, social networking sites or other medium of communication, the business of this Department including, but not limited to:
  - a. Photographs/images related to any investigation of this Department;
  - b. Video or audio files related to any investigation of this Department; or
  - c. Any other information related any investigation of this Department.



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5. Employees are prohibited from posting any photograph, audio, video, or any other multimedia file related to any past or current action of this Department, either in homage or critique.
6. Employees are prohibited from posting any material on the Internet that brings discredit to or may adversely affect the efficiency or integrity of the Aberdeen Police Department.
7. Employees are prohibited from posting any sexually graphic or explicit material, of any kind, which is readily identifiable to the employee as a police officer, on any form of social media or social networking site.

### **H. Administrative or Internal Investigations**

1. Employees who are brought under administrative or internal investigation related to their performance, functionality or duties of a peace officer may be asked to provide the Department, or its designated investigator, with access to the social media and social networking platforms in which they participate or maintain.
2. Employees who are brought under administrative or internal investigation related to the Department's operation, productivity, efficiency, morale or reputation, may be asked to provide the Department, or its designated investigator, with access to the social media and social networking platforms in which they participate or maintain.



# The Aberdeen Police Department Policies & Procedures Manual



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Chapter 05 Rules of Conduct and Internal Affairs  
Section 14 Political Activity

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Original Policy

## **A. Policy**

1. Except as noted, all employees of the Department have the same right to engage in political activities as any other citizen.
2. Employees uncertain of the propriety of the political activity in which they desire to participate should request the assistance of the Chief of Police.

## **B. Unauthorized Activity**

1. Employees of the Department may engage in any political activity not prohibited by local, State or federal statutes.
2. Employees of the Department shall not use their official authority or influence for the purpose of interfering with or affecting the results of an election, or a nomination for office.
3. Employees of the Department will not directly or indirectly coerce, attempt to coerce, command, advise, or promise to reward a State or local officer or employee to pay, lend, or contribute anything of value to a political party, committee, organization, agency, or person for political purposes.
4. Employees of the Department may not engage in political activity while wearing any portion of the official issued uniform, equipment, or while using an official Department vehicle.

## **C. Police Officers Holding State or Local Elective or Appointed Offices for Profit**

1. A police officer, as a public officer, is prohibited from simultaneously holding two offices of profit.
2. Department sworn personnel will not hold an elective or appointed office of profit at the State or local level while employed as a police officer.
3. Upon taking the oath of office for such a position, an employee will forfeit his position as a police officer with the Aberdeen Police Department.
4. An employee's involvement in political activity on the Federal level will be governed by the Hatch Act.



## The Aberdeen Police Department Policies & Procedures Manual



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Chapter 05 Rules of Conduct and Internal Affairs  
Section 15 Tobacco Use Policy

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GO 19-034, 15/15/2019  
New Policy

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### **A. Policy**

1. The Aberdeen Police Department strives to provide a healthful working environment for all employees while considering the needs and concerns of smokers, smokeless tobacco users, and non-users.

### **B. Tobacco Use Rules**

1. Smoking or carrying any lighted tobacco product or the use of smokeless tobacco, such as snuff or chewing tobacco, is prohibited in the following areas:
  - a. All buildings and facilities owned, leased, or rented by the City of Aberdeen, except for established designated areas; and
  - b. Any Department vehicle.

### **C. Enforcement**

1. All employees share responsibility for following and enforcing this policy and shall be responsible for bringing it to the attention of all Department visitors.
2. Any alleged non-compliance with this policy shall be reported to the on-duty supervisor.