


PINE BLUFF POLICE DEPARTMENT POLICY & PROCEDURES MANUAL

	SUBJECT:	POLICY NUMBER 1210
	DISCIPLINARY PROCEDURES	ISSUE DATE 02/19/2008
	CHAPTER: PROFESSIONAL STANDARDS	EFFECTIVE DATE 02/19/2008
	ISSUED By: Chief of Police John E. Howell	TOTAL PAGES 7

I. ADMINISTRATIVE PROCEEDINGS

Violations of policy and procedures are handled in administrative proceedings. The standard of evidence used in such proceedings will be “substantial.” Under the substantial evidence standard, all evidence is competent and may be considered, regardless if its source and nature, if it is the kind of evidence that “a reasonable mind might accept as adequate to support a conclusion.”

II. PURPOSE OF THIS PROCEDURE

- A.** This procedure will establish a system of conduct management. Employees are given sufficient notice about the conduct expected of them, how discipline will be used to enforce such standards, how positions can be terminated and notice that all decisions concerning administrative action relevant to these standards will be dealt with in a fair manner.

- B.** The purpose of disciplinary action is to correct undesired conduct, behavior or performance, and in doing so to help the employee become a better employee. Disciplinary action is designed to correct improper performance once it is shown the employee knew, or should have known, what was expected and was capable of performing properly but failed to do so. Discipline is particularly appropriate when other, lesser corrective actions, such as supervisory consulting or formal counseling, have been tried but have failed to bring about effective and lasting results. These include, but are not limited to, incidents where:
 - 1. The department’s public image has been seriously damaged.
 - 2. Serious risks of liability have been created.
 - 3. Employee safety has been seriously compromised.
 - 4. The employee has demonstrated, directly or constructively, that less severe corrective action did not change performance significantly

- C. Employee culpability is an important element in the decision to use disciplinary action. Culpability means the employee's violation was purposeful, reckless, and negligent or without due regard for the explicit and connotative (intended) meanings in official directives. Performance deficiencies caused by an employee's culpability shows a lack of regard for the department's mission as well as for management's priorities; therefore, they are treated as a more serious problem than are errors due to ignorance or lack of ability, even though the results are the same or similar.
- D. When it is established through substantial evidence that employee culpability exists and immediate termination is not warranted, discipline is appropriate provided the employee's job position is worth saving, the employee has a good productive work history, and the employee demonstrates an ability and willingness to correct the problems with a minimal amount of direct supervision. In different situations, termination is the appropriate resolution.

III. EQUITY DEFINED

- A. Equity means that management reviews each employee's performance deficiency and considers the following circumstances to help determine the amount and degree of administrative action:
 - 1. The seriousness of the deficiency or offense.
 - 2. Management's expectation that the type and level of administrative action will facilitate to deter the conduct, work proficiencies or behaviors of others.
 - 3. The employee's overall conduct, work productivity, time between other violations (if other offenses occurred) and behavior record.
 - 4. Management's expectation based on the employee's overt behavior, that the type and level of administrative action will improve the employee's future performance. In other words, does the employee respond positively to discipline?
 - 5. The employee's seniority.
- B. The section of the procedure also places a high level of responsibility on employees to know the type of conduct, behavior or performance that can result in disciplinary action or termination. To successfully defend against the should-have-known standard this procedure places on employees, employees must be able to produce substantial evidence that the typical employee could not have known that such conduct, behavior or performance could lead to disciplinary action or termination.

IV. **NON-DISCIPLINARY STEPS**

Not every supervisory interaction or intervention with an employee is to be construed as discipline. Except in cases of culpability, correcting undesirable conduct, behavior or work performance is at times best handled by the immediate supervisor in a non formal atmosphere. This means taking the employee aside and discussing the problem, candidly and openly. These actions may or may not be formally documented, depending on the supervisor's discretion. Facts to be considered in making these decisions will include, but will not be limited to the employee's intentions to do well, the employee's appreciation of the supervisory consulting and the employee's immediate actions to correct the problem. In addition to supervisory consulting, the following situations are not considered to be disciplinary. They are:

- A. **COUNSELING:** At times, personal problems may interfere with the employee's ability to perform normally. When the results are not serious enough for discipline but call for a more formal type of supervision than consulting with the employee, counseling is the proper tool to help the employee. Counseling is not a form of discipline but is the last tool management has available to correct a problem if the employee is not capable of doing so.

- B. **ADMINISTRATIVE LEAVE:** Administrative leave occurs any time the employee must be removed from duty until a proper investigation or other administrative proceeding can be held. Usually the situation involves a case of suspected misconduct or being physically unfit for duty. In such cases leaving the employee in position would create an unreasonable liability or safety issue for the organization. The immediate supervisor can order a relief from duty for an employee and then immediately report the action to the next supervisor in the chain of command. Incident documents should follow the chain of command to the Chief of Police, who should initiate an investigation and make a decision within 24 hours of receiving such notice about whether the relief will continue, and for how long.
 - 1. Refer to Pine Bluff Police Department Policy 1201 (Administrative Leave) for further information.

- C. **FOLLOWING A DEADLY USE OF FORCE:** These types of administrative leaves are not discipline and should not be viewed as such. Rather, they are additional administrative actions that may be necessary after a deadly use of force. The purpose of the administrative leave is to help the employee adjust and handle any personal or emotional needs resulting from traumatic events. Administrative leave is mandatory and should be initiated by the duty command officer and should continue until the Chief of Police orders otherwise.

- D. **INCOMPETENCE OF INABILITY TO SERVE:** Anytime an employee's performance is consistently poor or the employee is not able to perform all the assigned responsibilities, duties or tasks of the job in a competent manner, cause exists to terminate the employee's position.

V. STEPS OF PROGRESSIVE DISCIPLINE

- A.** Whenever disciplinary action is used, the employee will be informed in writing of the following specific elements that apply:
1. The exact offense violated.
 2. How the violation affects the organization's ability to be an effective, efficient or safe employer.
 3. What the employee must do to avoid future disciplinary action. (if applicable)
 4. How much time the employee has to correct the problem. (if applicable)
 5. What further disciplinary action-possibly including termination-will occur if performance does not improve. (if applicable)
- B.** This section assures employees that when discipline is used it will be used only for just cause, it will follow a due-process procedure and it will not be used in an illegally discriminatory manner. The essence of these three concepts is incorporated in the following elements.
1. The employee receives advance notice of the possibility of discipline
 2. Directives are reasonably related to the department's business necessity
 3. A fact finding effort was made prior to disciplinary action
 4. A fair and objective investigation will be held
 5. The level of proof required to support a disciplinary action will be substantial
 6. The decision to discipline will be made and applied in an equal and equitable manner.
 7. The employee is entitled to know all the facts surrounding a disciplinary decision and is given an opportunity to present a defense.
- C. WRITTEN REPRIMANDS:** A written reprimand is the first step in formal discipline, unless circumstances of the case justify a higher level of discipline, in which case this can be bypassed.
- D. SUSPENSIONS:** Suspensions are serious interventions and occur when an employee fails to respond positively to lesser forms of discipline. Suspensions can also be the first step in progressive discipline if the act, and/or the result of the act, is serious enough that a written warning or reprimand would not promote the intent or spirit of the purpose and need for disciplinary action.

- E. **DEMOTIONS AS A FORM OF DISCIPLINE:** Demotion as a form of discipline is intended to be punitive and can occur concurrently with a suspension when a supervisor is involved. This is perhaps the most serious form of disciplinary action for a supervisor and the last effort for the department to try and save the employee's position.

VI. **TERMINATION**

- A. All employees are subject to termination for the following general condition:
1. Reductions in work force brought about by economic considerations such as lack of work.
 2. Consistent performance failure(s) or a single performance failure that results in serious consequences to the department's public credibility or ability to do business in an effective and efficient manner, with or without fault.
 3. Decisions of the administration as permitted by law.
- B. Termination for performance failure (through acts of omission or commission while on or off duty) can occur with or without fault on the employee's part. While no attempt is being made here to list all situations that may result in such removals, the following examples illustrate the kinds of failures that may lead to cause for termination.
- C. **EXAMPLES OF TERMINATION WITH FAULT:**
1. Insubordination
 2. Threatening a supervisor
 3. Fighting and assaults or provoking a fight or assault
 4. Forbidden harassment
 5. Endangering another
 6. Drug or alcohol abuse
 7. Theft
 8. False reporting or witnessing
- D. In cases of termination with fault, management attempts to establish, through substantial evidence, that the employee had culpability; in other words that the employee acted purposefully, knowingly, recklessly or negligently.
- E. **EXAMPLES OF TERMINATION WITH OUT FAULT:**
1. Chronic problems
 2. Substantial impairment of the employment relationship
 3. Situations where performance is not reasonably expected to improve or where problems are not expected to be resolved in a reasonable time.

F. CHRONIC PROBLEMS INCLUDE:

1. Excessive excused and non-excused absences
2. Failure to consistently accomplish expected levels of performance results on assigned tasks
3. Chronic complaining about operations to the extent that management must spend excessive time dealing with the problems caused by complaints.

G. EXAMPLES OF SUBSTANTIAL IMPAIRMENT OF THE EMPLOYMENT RELATIONSHIP INCLUDE:

1. Unreasonable disruption to normal operations of the organization
2. Endangering the organization's mission
3. Actions or inaction that contributes to an unnecessary risk to the public image.
4. Creating conflicts of interest.

H. SITUATIONS WHERE PERFORMANCE IS NOT REASONABLY EXPECTED TO IMPROVE INCLUDE:

1. Past failures to respond positively to progressive discipline
2. Habitual violations of directives
3. Work effort requiring excessive supervision after reasonable training has occurred to prepare the employee for the duties and responsibilities of the position
4. The employee's failure to learn the informal aspects of the job not covered by formal training but that are reasonable to expect of a competent employee who has gained knowledge and experience from the normal work environment.
5. The employee's failure to accept the organization's business purpose, mission, code of conduct, or oath of office.

I. Failure to comply with directives are normally handled through an investigative process. These investigations are conducted to determine the appropriateness of discipline and administrative sanctions. Important considerations in decisions to discipline include maintaining and advancing the organization's effectiveness, efficiency and safe operations. These considerations are combined with the demonstrated performance conduct, proficiency and behavior of the employee.

J. **NOTICE OF TERMINATION** If an employees' performance requires an investigation the employee may be placed on paid administrative leave pending outcome of the investigation. Depending on the findings, the employee may then be terminated. If this occurs, employees are provided with information that includes:

1. The reasons for the termination
2. The effective date of termination
3. Whom to contact regarding status of fringe and retirement benefits
4. A statement that the content of the employee's record relating to the termination will be made available to the employee according to state public law.

VII. REPORTING PROCEDURE

- A.** Each supervisor is responsible for reporting violations of Policies, Procedures and Standards of Conduct. The reporting supervisor will report all violations on the Employee Disciplinary Report Form. If the violation is of a serious nature the supervisor will attach a copy of all completed written reports with the form. The Employee Disciplinary Report Form will be forwarded to the Division Commander for review and recommendation of actions(s) to be taken.

- B.** The report will then be forwarded to the designated office for action by the Chief and filing in the officer's file. A copy of the Employee Disciplinary Report Form will be returned to the Division Commander and the employee indicating what action was taken.