

THURMONT POLICE DEPARTMENT			
GENERAL ORDER	Date Issued: February 15, 2007	Effective Date: February 15, 2007	Order No: Chapter 3.3
Authority: Chief of Police Gregory L. Eyer		Manual Page No:	
Subject: Disciplinary System		Replaces Page No:	
CALEA Standard: 26.1.4	Distribution: ALL	Amends:	Number of Pages: 18
Related Documents: 26.1.5 through 26.1.8		Rescinds:	

This Directive is for internal use only, and other than as contraindicated here this Directive does not create or enlarge this Department's, governmental entity's, any of this Department's officers, and/or any other entities' civil, criminal, and/or other accountability in any way. This Directive is not to be construed as the creation of a standard of safety or care in any sense, with respect to any complaint, demand for settlement, or any other form of grievance, litigation, and/or other action. Deviations from this Directive, if substantiated, can only form the basis for intra-Departmental administrative action(s) (including discipline and/or termination).

I. PURPOSE:

To outline the disciplinary process for employee misconduct.

II. POLICY:

The Department has a responsibility to its employees and the community to administrative/disciplinary action against those employees whose conduct discredits the Department or impairs its effective operation. Any employee of the Thurmont Police department is subject to appropriate disciplinary action if he/she commits an offense under the laws of the United States, the State of Maryland, local ordinances, or violates any General Order of the Thurmont Police Department.

III. DEFINITIONS:

Administrative Action – any non-disciplinary action that the Department imposes as full or partial resolution of a resolution of a sustained violation of the Department general orders.

Discipline – any formal sanction or resolution to a sustained complaint against an employee, which may consist of any negative sanction, from documented counseling up to and including dismissal.

IV. PROCEDURE:

A. When corrective action is indicated upon a sustained violation, administrative/disciplinary action may be taken, subject to the provisions of the Law Enforcement Bill of Right (LEOBR) (as applicable) and/or the General Orders of the Department.

B. Training as a Function of Discipline

1. Supervisors will be responsible for developing and coordinating annual in-service training for Department employees. Training will be designed to further the employee's knowledge and understanding of proper and effective law enforcement methods and techniques. The training is intended to promote positive and constructive techniques for improving employee productivity, effectiveness and morale. The Department provides retraining for employees in areas of special concern and where it is indicated an employee requires training as instruction to correct deficiencies in performance.

C. Counseling as a Function of Discipline

1. It shall be the policy of the Thurmont Police Department to document superior and/or deficient performance of employees and to utilize the Counseling Report for performance evaluations. The purpose of this policy is to provide a standardized mechanism so that supervisors may document superior and/or deficient performance and receive feedback from the employee.
2. The following procedure will be followed when the decision is made to use a Counseling Report:
 - a. A supervisor will complete a Counseling Report as soon as possible after the initial receipt of information or observation.
 - b. The supervisor will summarize the performance issues and the reason for the counseling report.
 - c. As soon as possible after the completion of the report, the supervisor will schedule a time in private to meet the employee and discuss the matters addressed.
 - d. The employee will be provided an opportunity to review, comment on the issues, sign and receive a copy of the counseling report.

- e. The supervisor who issued the counseling report will give one copy to the employee, maintain the original for the supervisor's records, and forward a copy to the Chief of Police, for review.
- f. The supervisor's copy will be retained for a period of one year. Supervisors will use the counseling reports to support evaluations and validate ratings.

D. Punitive Action as a Function of Discipline

1. Discipline will generally be administered in a progressive fashion from minimal to maximum. The seriousness of the incident; circumstances surrounding the incident; employee's past disciplinary record; employee's past work performance; overall negative impact on the department; and the prognosis for future similar problems will all be taken into consideration in the administration of discipline
2. When employees breach rules of conduct, management must take disciplinary corrective action. The discipline applied must be in a consistent and equitable manner. Unless the breach of conduct warrants otherwise, progressive discipline levels should be utilized. Progressive discipline is simply the imposition of more severe discipline each time the rules of conduct are breached.
3. The progressive discipline levels are: verbal reprimand; Written counseling/Training; Written Reprimand; Fine/Loss of Leave; Suspension; Denial of Increment; demotion; Probationary Dismissal; and Dismissal.
4. Before applying any type of disciplinary procedures, it is important that employees be fully aware of all rules and regulations affecting their immediate work environment. The rules must be clear, concise, and provide forewarning that failure to adhere to the rule will result in disciplinary action. The employee should be fully aware of the rule and be provided a copy.
5. If a rule is believed to have been violated, the supervisor should be sure to gather all facts, and if convinced the employee violated the rule, set the punishment to match the offense. Normally, this means beginning with the least severe punishment, and progressing forward.
6. Upon conclusion of any necessary investigative measures, if it is apparent that an employee is guilty of a rule violation and disciplinary action is appropriate, the level of discipline to be administered will be in accordance with the following general guidelines.

a. Verbal Reprimand

- i. Employees may be verbally reprimanded by a supervisor on minor performance issues usually involving a first occurrence where it is believed that level of discipline will bring about the intended corrective behavior.
- ii. Verbal reprimands should be handled by the supervisor in a private setting. The employee should be told the facts as the supervisor knows them and the employee should be allowed to present his/her side. If the supervisor is not persuaded by the employee's version, the supervisor should advise the employee of the decision and point out exactly what is expected of him and what the circumstances will be if the violation occurs again.

b. Counseling Statement

Written formal counseling may be taken for minor performance related issues in conformance with procedures outlined in 26.1.4 Section D of this General Order. These actions are intended to provide corrective discipline and written documentation for evaluation purposes. Individual counseling statements will not be placed in an employee's personnel file with exception to matters that become supporting documentation to a higher level of discipline required in an appeal process.

c. Written Reprimand

- i. If an employee's level of misconduct is more serious than counseling or adverse material can address, or is of a continuing nature or pattern of misconduct, the employee as a general rule may be reprimanded.
- ii. Reprimands will contain charges specifying the rule violation and a description of the conduct that constituted the rule violation.
- iii. Reprimands will be made part of the employee's personnel file for the evaluation period.
- iv. Written reprimands serve to document the supervisors' displeasure of the employee's rule violation and provide a written warning. It is important that the document contain such information as the rule violated, the facts concerning it, the time, date and names of other persons or witnesses who may be involved. The document should be clearly labeled as a written reprimand and should point out that

further reoccurrence may result in more severe discipline being taken. A copy is to be given to the employee and copies forwarded to appropriate personnel in the chain of command, filed in the employee's personnel file, and in the Internal Affairs Files.

Written reprimands will only be issued in accordance with the Law Enforcement Officers Bill of Rights, and the Town of Thurmont regulations.

- d. Suspension, Fine, Loss of Leave, Denial of Increment, Demotion
 - i. If an employee's misconduct is considered at a level of seriousness, or is part of a continuing pattern behavior involving repeated misconduct, the employee may be disciplined at this level in accordance with applicable Department regulations, Town of Thurmont guidelines, and the Law Enforcement Officers Bill of Right.
 - ii. If the action determined appropriate is outside the scope of a supervisor's authority, the supervisor will make the appropriate recommendation to the higher level of authority.
 - iii. If the employee is guilty of an offense such that it significantly impedes the employee's ability to perform or continue to perform at the current level and grade, the employee may be demoted in grade in accordance with applicable regulations and requirements.
 - iv. These actions will be made part of the employee's personnel file for the evaluation period.
 - v. Fines and Suspension Without Pay are governed in accordance with the Law Enforcement Officers Bill of Rights. This discipline may be imposed because of misconduct, negligence, inefficiency, insubordination, or other reasons satisfactory to the individual(s) authorized to impose the suspension or fine.
 - vi. Involuntary Demotion may be appropriate where an employee demonstrates an inability to perform at the higher level but has shown ability to perform at the lower level. Factors to consider are length of service, previous disciplinary record, training received, length of time in current position, and work performance.
- e. Dismissal on Probation only applies to employees serving a probationary period. During this time the employee is instructed in how to perform the job and what standards of conduct are expected. The employee is carefully evaluated to determine ability to perform in

an efficient manner. If the employee has demonstrated, after proper training and counseling, an inability or unwillingness to perform the duties, rejection on probation must be imposed. Supervisors must document the employees unsuitability for the position for later use where needed.

f. Dismissal

- i. Dismissal is the most serious sanction which can be imposed. It should not be taken lightly and should only be administered under normal circumstances, if prior efforts of behavior modification through other means have failed or if the conduct is such that any lesser form of action would be inappropriate.
- ii. If an employee's misconduct is of a level of seriousness that continued employment is no longer appropriate or is a part of a continuing pattern of behavior involving repeated serious misconduct; or if the employee's performance is considered not productive, or not suitable to the assigned level, the employee may be dismissed in accordance with the applicable guidelines.

g. Emergency Suspension

- i. The Department must enforce discipline and will initiate disciplinary action for violations of the Rules and Regulations. Emergency suspensions shall be imposed when it appears that the action is in the best interest of the public and the Department.
- ii. Emergency suspension is a tool available to supervisory personnel used to avoid delay and cope with disciplinary problems of magnitude. The supervisory level having the authority to impose emergency suspension shall be a Sergeant or higher.
- iii. To suspend an employee on an emergency basis, the supervisor shall take the following steps:
 - Notify members verbally of their suspension and relieve them of their equipment, i.e. weapon, key, badge, identifications cards.
 - Issue the member a formal suspension letter.
 - Prepare a Complaint Against Personnel Form (52-A) including statements of witnesses. Copies of the report will be forwarded through channels to the Chief of Police.

- iv. Any employee suspended from duty will be notified of a date, time and location for a Suspension Review, to determine whether the suspension will be continued or terminated. The Suspension Review will be held no later than three days following the suspension from duty exclusive of weekends and holidays.
- v. The Suspension Review Officer will be the suspended employee's Division Commander/Supervisor, or higher as appointed by the Chief of Police.
- vi. The Suspension Review is not a judicial proceeding. The Suspension Review is limited to the presentation of the circumstances surrounding the suspension of the employee, in order to determine whether such circumstances warrant continued suspension. When the acts alleged to have been committed by a suspended employee are of such a serious nature that, in the judgment of the Suspension Review Officer, the interests and welfare of the public, the office, or the individual are best served by continued suspension, the Suspension Review Officer will so recommend to the Chief of Police.
- vii. Suspension Reviews will be recorded and the recording will be forwarded to the Chief of Police for inclusion in the investigative report of the case.
- viii. Suspended employees may, if they so desire, be accompanied by Counsel; however, only matters dealing directly with the determination of the suspension will be heard.
- ix. The suspending officer and the suspended employee's Division Commander/Supervisor will attend the review. Suspended employees will have the right to present testimony in their own behalf. The Suspension Review Officer will determine what testimony will be heard relative to the purpose of the review. The Suspending Officer or the Suspension Review Officer may request legal assistance at any review.
- x. Suspension Reviews are not public hearings. Neither members of the general public, nor of the news media, will be admitted to such reviews unless called upon to testify in matters relating to the purpose of the review.
- xi. Based on the statements presented, the Suspension Review Officer shall recommend to the Chief in writing one of the following:

- The suspension was not justified and the employee should be returned to duty. (The period of suspension will be with pay.)
 - The suspension was justified but the employee should be returned to duty. (The period of suspension will be with pay.)
 - The suspension was justified and the employee should not be returned to duty. (The period of suspension will be with pay pending final disposition of charges.)
 - Suspension from current assigned duties was justified; however, the employee may be assigned other duties within the Department pending final disposition of the charges. (The period of suspension may be without pay if the employee has been charged with the commission of a felony.)
- xii. The Chief, upon receiving the Suspension Review Officer's recommendation may accept, reject, or modify the recommendation. Once the Chief has decided, he/she will inform the Division Commander, Supervisor, and Employee.

h. Administrative Leave

- i. When in the course of an investigation of an employee, the Chief decides that the employee must be placed on administrative leave, the Chief will so order. The period of leave will be with pay. When ordering such leave the Chief will inform the Supervisor, Division Commander, and Employee.
- ii. The employee's Division Commander will issue the employee a formal administrative leave order and relieve the member of his/her equipment, i.e., weapon, key, badge, identification cards.

7. Disciplinary Dispositions

The following are classifications provided for final disposition of employee misconduct:

- a. Exonerated – the alleged act occurred but was justified, legal and proper.
 - i. Proper Conduct and Policy – The action of the Office or the employee was consistent with Office policy but the complainant suffered no harm.

- ii. Proper Conduct/Policy Failure – The action of the Office or the employee was consistent with Office policy but the complainant suffered harm.
 - b. Sustained – The accused employee committed all or part of the alleged acts of misconduct.
 - c. Not Sustained – The investigation failed to produce sufficient evidence to prove clearly or to disprove the allegation.
 - d. Unfounded – The alleged act did not occur.
8. Misconduct Not Based on Complaint – This is used to indicate the discovery of sustained acts of misconduct revealed during the investigation that were not alleged in the original complaint.

Dispositions of sustained and/or misconduct not based on a complaint must be acted upon by the Supervisor or forwarded to the appropriate level of authority for action with a recommendation of penalty.

If the action is accepted by the employee it will be filed appropriately.

If the employee does not accept the action he/she may appeal as outlined in Section 26.1.6 of this General Order.

9. Disciplinary Notifications
- a. Investigative procedures are outlined under General Order 52.1 of the Internal Affairs policies. Those investigative procedures require certain notifications to officers under the Law Enforcement Officer Bill of Rights. The disciplinary process does not replace in any manner the process of those notifications. The disciplinary process addresses notifications required following the investigative process.
 - b. On determination that disciplinary action is required the charging supervisor will insure the following notifications, where applicable, have been or are made:
 - i. Notification of Charges (TPD #52K)
 - ii. Complaint Against Personnel (TPD #52A)
 - iii. Probationary Officer Disciplinary Action (TPD #52I)

iv. Acceptance of Disciplinary Action (TPD #52J)

v. Summary Punishment (TPD #52L)

E. Supervisory Role

The Role of the Supervisor in the disciplinary process is as follows:

1. To observe the conduct and appearance of personnel and detect those instances when commendations or disciplinary actions are warranted.
2. To investigate allegations of employee misconduct when within the scope of their authority and responsibility.
3. To recommend the most effective methods of discipline, taking into consideration the behavior history, circumstances, and personality traits of the personnel under their supervision.
4. To implement the type of disciplinary action approved by the Chief at the level authorized.
5. Levels of Supervisory Authority
 - a. Disciplinary actions will be administered in accordance with applicable guidelines. When the necessary action is outside the scope of the supervisor, the supervisor will make specific recommendations for action to high authority.
 - b. The maximum levels of supervision authorized to take specific actions are as follows:
 - i. Sergeant and above
 - Verbal Reprimand
 - Counseling Statement
 - Emergency suspension with pay pending review by higher authority.
 - Written Reprimand (pending review by higher authority).
 - ii. Deputy Chief of Police and above

- Suspension without pay – maximum 3 days (pending review by higher authority).

iii. Chief of Police

- Demotion
- Denial of Increment
- Fine
- Suspension without pay
- Dismissal

F. Appeal Process

1. Law Enforcement

- a. Appeal procedures and hearings for personnel are governed by the Law Enforcement Officers' Bill of Rights, a copy of which is made part of this manual.
- b. Summary Punishment
 - i. Summary Punishment is punishment that may be imposed by a member of the Office holding the title of Deputy Chief, Chief of Police, or member acting in that capacity, or higher authority.
 - ii. Summary Punishment may be imposed for minor violations of the Department's Rules and Regulations when:
 - The facts which constitute the minor violation are not in dispute.
 - The Officers waives his/her hearing before a Hearing Board.
 - The Officer accepts the punishment imposed by the Commander or higher authority.
 - iii. Summary Punishment may not exceed three (3) days suspension without pay or a fine not to exceed \$150.00 administered at the authorized supervisory level.

c. Hearing Process

- i. Administrative hearings are not to be confused with judicial proceedings. At an administrative hearing, a guilty verdict requires merely a preponderance of evidence. An attorney, or other person designated by the Chief, will present the circumstances of the alleged offense to the board. The admission of evidentiary materials and statements will be governed by the Law Enforcement Officers Bill of Rights. Members have the right to be represented by counsel of their choice.
- ii. In general, the process followed for hearings of sworn personnel shall be:
 - There will be no weapons permitted in the hearing.
 - Hearing board members shall be notified of the administrative hearing by memorandum from the hearing board chairman.
 - The hearing will be conducted under the direction of the senior ranking member (chairman). The chairman will set the hearing, formally notify the accused, and summons witnesses as called for.
 - The chairman shall call the hearing to order and advise the parties that the proceedings of the hearing will be recorded but not transcribed unless deemed necessary at a later date.
 - The chairman shall inquire of the accused if he/she has received a copy of the charges and specifications to be heard by the board. If the prosecution and defense are ready to proceed, each charge and specification shall be read unless waived, and the accused shall enter a plea to each charge.
 - The chairman shall direct the prosecution to begin its case and shall instruct all present that all testimony under oath or affirmation is subject to the penalties of perjury.
 - The chairman shall resolve issues as to the admissibility of any evidence.
 - After completion of the prosecutor's case, the chairman will direct the defense to proceed. Counsel will be advised of the appropriate time for presenting matters in mitigation or extenuation. Such matters may not be brought forward prior to the reaching of a verdict.

- Upon completion of arguments, the hearing room will be cleared and the hearing board will make an objective review off all evidence brought before the members, being careful not to prejudice the case as to the innocence or guilt of the accused.
- Each member will then make a determination of innocence or guilt as to each charge and specification and will inform the board members of their decision when requested to do so by the chairman. A majority shall decide the verdict on each charge and specification. All interested parties shall re-enter the hearing room where the findings of each charge and specification shall be announced. The exact time of the clearing and recalling of all parties shall be noted in the record.
- If the accused has been found not guilty of all charges, the chairman shall announce the conclusion of the case and adjourn the hearing.
- In the event of a guilty verdict on any charge, the chairman will advise counsel that matters of mitigation or extenuation may be presented.
- At the completion of any matters in mitigation or extenuation, the hearing room shall be cleared and the chairman shall cause another vote to be taken as to the punishment. Voting will be finished when a consensus is developed. The parties shall be recalled to the hearing room. The exact time of the clearing and recalling of all parties shall be noted in the record.
- The chairman shall inform the parties of the judgment reached and that it will be forwarded to the Chief. An appropriate written report will be prepared by the chairman for the Chief within 72 hours. In the cases of split decision by the hearing board in the rendering of a guilty verdict, the reasons for the dissenting opinion will be noted in the report. A copy of the report will be provided to the accused member or his defense counsel.
- Should termination be the recommendation of the hearing board, the chairman shall contact the Chief. The Chief shall notify the following that the accused is immediately suspended until the Chief makes his final determination:
 - The accused

- The Deputy Chief
- Supervisors

- If a deputy has been charged according to the Law Enforcement Bill of Rights and is notified that an administrative hearing board will take place, and the Officer refuses to appear, resigns, or otherwise fails to appear, the administrative hearing board may proceed in his/her absence. The results of the hearing board will be placed in the employee's personnel file.

2. Civilian Personnel

a. Administrative Guidelines

- i. All time limits specified in this order are defined in terms of working days being Monday through Friday, with the exception of holidays as adopted by the Town. In the interest of prompt resolution of employees' discipline each step in the process should be taken as rapidly as possible but not later than the prescribed time limit. In the event of extenuating circumstances, a time limit may be extended by mutual agreement of the parties at that step.
- ii. If a hearing is scheduled during an employee's work hours, the employee may attend the hearing at no loss in pay. The employee will not be paid (either straight time or overtime) if the hearing occurs during off-duty hours. Hearings are scheduled by the supervisor at each step in the process, with written notice to the employee unless mutually agreed otherwise.
- iii. Issues which have not been raised at Step 1 of the process may not be raised at Steps 2 or 3.
- iv. Employees shall have the right to appear with a representative of their choosing at any or all steps in the process.
- v. Failure of the employee to appeal to the next higher step within the specified time period will constitute a withdrawal of the appeal, and will bar future action by the employee with respect to issues of the disciplinary action at hand.
- vi. Failure of a supervisor to respond to an appeal within the specified time period will permit the employee to proceed to the next step in the process within the specified time period.

vii. Employees may withdraw appeals at any time by written notice prior to completion of Step 3.

viii. All documentation concerning an appeal will become a part of the personnel record of the employee involved.

ix. There will be no weapons permitted in the hearing.

b. Procedural Steps

i. Step 1: Command Level

- If the employee is not satisfied with the action, the employee may request a hearing with and decision by the commander/supervisor as appropriate to the level of discipline taken.
- The appeal must be presented in writing with justification within five (5) working days of the decision of action.
- Upon receipt of a request for a hearing, the commander/supervisor shall set a date, time and place, for such a hearing not less than five (5) working days nor more than ten (10) working days after receipt of the request, unless otherwise mutually agreed upon by both parties, and shall notify the employee thereof. After the hearing, the commander/supervisor will advise the employee of his/her decision within ten (10) working days. If the employee still is unsatisfied, the employee may, within five (5) working days of receipt of the decision, file a written request to have his/her case heard by the Chief.

ii. Step 2: Chief

- If the employee is not satisfied with the decision at the command level the employee may request a hearing with and decision by the Chief.
- This appeal must be presented in writing with justification within five (5) working days of receipt of the decision of the commander/supervisor.
- Upon a receipt for a request for a hearing, the Chief shall set a date, time, and place for a hearing to be held not less than five (5) working days nor more than twenty (20) working days after

the receipt of the request, unless otherwise mutually agreed upon by both parties, and shall notify the employee thereof.

- All hearings shall be conducted in closed session.
- The Chief may determine if the action appealed should be affirmed, reversed, or otherwise modified.
- The affected employee shall be notified in writing by the Chief within ten (10) working days of the hearing of the final determination with respect to the disciplinary action or dismissal.

- The decision of the Chief is final.

G. Notice of Dismissal

1. If an investigation of employee misconduct results in dismissal, the employee shall receive written notice which includes the following information:
 - a. A statement citing the reason for dismissal (charges);
 - b. The effective date of dismissal;
 - c. A statement of the status of fringe and retirement benefits after dismissal;
 - d. A statement as to the content of the employee's personnel record relating to the dismissal; and,
 - e. Notice of appeal rights.
2. These provisions do not apply to entry-level probationary employees except in instances of brutality.

H. Maintenance of Records

1. Written records of disciplinary actions will be maintained by the Office of the Chief of Police in a secured area within the Department. Access to disciplinary actions are restricted the employee; to others on approval of the employee by signed release authorization; the Chief of Police and Command Staff; immediate supervisors on as needed basis; and Court Order.
2. Written records of disciplinary actions will be maintained as follows:

- a. Counseling Statement – Employee and Supervisor
 - b. Written Reprimand and above – Employee and Personnel File.
3. Disciplinary actions will be maintained indefinitely unless specified otherwise on the personnel action or removed by authorization of the Chief of Police.

ATTACHMENTS:

DOCUMENT DATES:

Amended Date:

Review Date:

Review Date:

Rescinds:

Order Written by: Chief of Police

Order Edited and Approved by: Chief of Police

CALEA Standards included in this Order
26.1.4, 26.1.5, 26.1.6, 26.1.7, 26.1.8