

THURMONT POLICE DEPARTMENT			
GENERAL ORDER	<i>Date Issued: July 1, 2022</i>	<i>Effective Date: July 1, 2022</i>	<i>Order No: Chapter 3.3</i>
<i>Authority: Chief of Police</i> <i>Gregory L. Eyer</i>		<i>Manual Page No:</i>	
<i>Subject: Disciplinary System</i>		<i>Replaces Page No:</i>	
<i>CALEA Standard:</i>	<i>Distribution: ALL</i>	<i>Amends: Previous Order</i>	<i>Number of Pages: 12</i>
<i>Related Documents:</i>		<i>Rescinds:</i>	

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 with the concurrence of the Administrative Accountability Board and the Administrative Charging Committee.

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 agency's Disciplinary Matrix.

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.

- 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 a level in accordance with the agency's Disciplinary Matrix and with the concurrence of the Administrative Charging Committee.
 - 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 by House Bill 670. 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 employee's 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 the Deputy Chief of Police or the Chief of Police.
- iii. To suspend an employee on an emergency basis, the supervisor shall notify the Deputy Chief of Police and at their direction take the following steps:
 - Notify the member 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 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. The violation and subsequent investigation will be forwarded to the Administrative Accountability Board for their review, and to the Administrative Charging Committee for their agreement of the suspension.
- 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.

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

After the completion of a Hearing Board, the recommended Disciplinary Action can be appealed to Circuit Court by the accused officer.

G. Hearing Board Process (Refer to Chapter 4 – Internal Affairs)

H. Civilian Personnel

- a. Administrative and Employee Guidelines for appeals regarding disciplinary action and/or termination will follow information outlined in the Town of Thurmont Policies (08/2018)

I. Notice of Dismissal for Civilian Employees

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 in accordance with Town of Thurmont Policies.

J. 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: March 17, 2022

Review Date:

Review Date:

Rescinds: Previous Order

Order Written by: Chief of Police

Order Edited by: Deputy Chief of Police

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*