



DESCHUTES COUNTY SHERIFF'S OFFICE

Policy Title: Disciplinary Action	Effective Date: June 28, 2016	Policy Number: 3.03
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Attachments:	L. Shane Nelson, Sheriff	

I. PURPOSE

To provide the member with a clear understanding of the disciplinary process used by the Deschutes County Sheriff's Office and the responsibilities of the member, supervisor, and agency in dealing with disciplinary issues. This policy applies to sworn and non-sworn members.

II. POLICY

It is the goal of the Sheriff's Office to maintain a high standard of integrity and professionalism. Career development of members shall be encouraged utilizing methods of commendation, counseling, training, or progressive discipline to attain and maintain this goal.

A discipline policy for the Deschutes County Sheriff's Office must be flexible enough to insure that both positive and negative behaviors are addressed.

It is the policy of the Deschutes County Sheriff's Office to follow progressive discipline theory when discipline is imposed. All discipline imposed or recommended shall be proportionate to the issue being addressed; the Sheriff's Office, in its sole discretion, reserves the right at all times to impose a level of discipline that is appropriate under the circumstances, even if not progressive, taking into account the type and seriousness of the issue being addressed and all relevant factors as determined by the Sheriff's Office.

It is also a policy of the Deschutes County Sheriff's Office that an underlying philosophy of "what is fair and right" be used as a yardstick to measure actions being contemplated. Discipline will never be used at any level to influence personal disputes or issues. Positive recognition, such as letters of commendation, special awards for individual actions or accomplishments, and citations are encouraged. All supervisors are expected to recognize in either written or verbal form behavior and actions that are "above and beyond".

It is not the intent of this policy to contradict applicable collective bargaining agreements. Any time such contradiction occurs, the applicable collective bargaining agreement shall supercede.

III. DEFINITIONS

Just Cause is required for disciplinary action. Just cause means a cause reasonably related to the public safety officer's ability to perform required work. Just cause includes a willful violation of reasonable work rules, regulations or written policies ([ORS 236.350\(2\)](#)).

Public Safety Officer

1. A member of a law enforcement unit who is employed full-time as a peace officer commissioned by a city, port, school district, mass transit district, county, Indian reservation, the Criminal Justice Division of the Department of Justice, the Oregon State Lottery Commission or the Governor and who is responsible for enforcing the criminal laws of this state or laws or ordinances relating to airport security.

2. A corrections officer, a parole and probation officer or a youth correction officer as defined in [ORS 181.610](#).

IV. PROCEDURES

A. Progressive Disciplinary Theory

1. When an area of improvement is identified, a program of counseling and/or training shall be implemented to encourage member effectiveness and efficiency.
2. In minor cases of performance deficiency, counseling and/or training will be utilized as a corrective method to modify the behavior.
3. Documentation on the individual's progress, or the lack thereof, will be maintained in the evaluation file for use in the member's next regular evaluation. All positive letters in the file may be placed in the member's personnel file after the annual evaluation. Members will have access to their own files at all times during regular business hours, however, it is requested that an appointment be made so as to alleviate impact on the Command Office staff.
4. While it is the policy of this agency to use progressive disciplinary theory, more serious violations may warrant formal discipline. Supervisors are authorized to impose discipline, including: oral or written reprimands; suspension without pay; demotion; and termination of employment (depending on the circumstances surrounding the particular violation).
5. Repeated violations, after prior reprimands or other disciplinary action, will generally result in more serious discipline being imposed.

B. Disciplinary Action Guidelines

Experience has shown that members respond best when they know what the rules are and can guide their conduct accordingly. The prohibited types of conduct set forth in [Policy 1.02, Sheriff's Office Standards](#), are not intended to include all offenses that will subject a person to the described actions. Unacceptable conduct not specifically listed should result in disciplinary action which is the same as that established for listed conduct that is similar in nature and seriousness.

C. Basis for Disciplinary Action

Just cause is required for disciplinary action. Just cause means a cause reasonably related to the member's ability to perform required work. Just cause includes a willful violation of reasonable work rules, regulations or written policies.

D. Relieving a Member from Duty

Members who are arrested for any violation of law other than a minor traffic infraction, or who are alleged to have committed a violation of policy, procedures or rules under circumstances casting doubt on the member's integrity or fitness for duty, shall be immediately suspended with pay by the member's supervisor or higher authority, pending an investigation. This includes relieving a member who is unable to perform his duties due to fatigue, intoxication, or emotional problems.

E. Supervisor Role in Disciplinary Process

1. The primary responsibility for maintaining and reinforcing member conformance with the standards of conduct of this agency shall be with the member and first line supervisors.
2. Supervisors shall familiarize themselves with the members in their unit and closely observe their general conduct and appearance on a daily basis.
3. Supervisors shall be alert to behavioral problems or changes that may affect a member's normal job performance. Such information should be documented by the supervisor.
4. If a supervisor perceives that a member may be having or causing problems, the supervisor should assess the situation and determine the most appropriate action.

5. A supervisor may recommend additional training to refresh and reinforce a member's skills.
6. Counseling may be used by the supervisor as follows:
 - a. to determine the extent of any personal or job problems that may be affecting performance, and to offer assistance and guidance.
 - b. to discuss minor and infrequent rule violations, and to discuss the substance and importance of the rules with the member.
7. The supervisor shall document all instances of counseling or additional training used to modify a member's behavior. This documentation is then available for use during the member's annual evaluation.
8. Each supervisor is expected to participate actively in the disciplinary process:
 - a. to enforce Sheriff's Office Standards of Conduct, DCSO policies [1.01, Ethics and Professional Standards](#) and [1.02, Sheriff Office Standards](#).
 - b. to participate in the development of rules, policies and procedures defining misconduct and unacceptable performance.
 - c. to communicate the rules, policies and procedures to subordinates.
 - d. to train subordinates in proper conduct and acceptable performance.
 - e. to take emergency disciplinary action where there is misconduct and/or unacceptable performance.
 - f. to perform investigations and recommend disciplinary action to the Sheriff.

F. Criteria for Effective Discipline

Supervisors shall:

1. Have a thorough knowledge of the rules, conduct, and performance standards of the organization so that they can enforce them.
2. Understand the reasons for each of the rules or standards.
3. Ensure that all members know the rules and standards. It is not appropriate to discipline a member for violating a rule or standard the member was not aware of.
4. Advise a member on all real performance or behavioral problems as they occur which could result in disciplinary action.
5. Advise their own immediate supervisor of all real performance or behavioral problems of subordinates which could result in disciplinary action.
6. Know and understand the technical procedures and requirements for taking disciplinary action.
7. Follow up on disciplinary action. Corrected behavior or performance problems shall be acknowledged. If the improvements or corrections have not been made, the supervisor shall proceed with additional disciplinary action.
8. Supervisors may correct minor disciplinary problems in an informal manner by engaging in routine counseling or recommending further training.
9. In addition to disciplinary recommendation(s), the supervisor is expected to forward recommendations to the Sheriff through the chain of command concerning recognition or reward.

G. Authority of a Supervisor in Disciplinary Actions

1. Sergeants are authorized to impose the following discipline:
 - oral counseling
 - verbal reprimands
 - written reprimands

- one day suspension without pay

Sergeants may recommend more severe discipline, if warranted.

2. Lieutenants are authorized to impose the following discipline:

- oral counseling
- verbal reprimands
- written reprimands
- up to five days suspension without pay

Lieutenants may recommend more severe discipline, if warranted.

3. Division Commanders are authorized to impose the following discipline:

- oral counseling
- verbal reprimands
- written reprimands
- up to 30 days suspension without pay

Division Commanders may recommend more severe discipline to the Sheriff, if warranted.

4. Supervisors are expected to discuss proposed disciplinary action with, and to seek input from, their immediate superior prior to the imposition of any discipline.
5. Supervisors are to take steps to ensure that the imposition of discipline is equitable and consistent with other discipline imposed in similar situations, taking into consideration all of the relevant factors such as member history and mitigating and extenuating circumstances.
6. Supervisors shall make reasonable efforts to discipline a member in a manner that will not embarrass or humiliate the member in front of other employees or the public.
7. Sergeants may temporarily suspend with pay a subordinate in certain conditions, such as a violation of a Sheriff's Office or supervisory order or another act compromising the function and/or integrity of the agency as specified in Section IV, C.
8. Discipline of a member relieved from duty will be in accordance with the remainder of these procedures.
9. The supervisor relieving a member from duty will immediately notify the Sheriff via chain of command and prepare a detailed report of the full circumstances.

H. Discipline without Charges and Specifications

1. A supervisor may administer an oral reprimand for minor violations. This is a documented oral reprimand; however, it is not placed in the personnel file. A copy may be retained by a supervisor for use in preparing evaluations.
2. A supervisor may administer a written reprimand for minor violations that would not merit suspension, demotion, or termination.

I. Discipline with Charges and Specifications

1. When it is clear that disciplinary action may result in suspension, demotion or dismissal, a confidential, written statement of charges and specifications shall be prepared by the appropriate supervisor or higher authority.
2. This confidential written notification shall include:
 - a. the particular rule(s) alleged to have been violated;
 - b. the dates and places where the alleged acts or omissions occurred and a summary of the investigation results;
 - c. a statement of the alleged acts or omissions; and
 - d. prior discipline or conduct that will be a factor in the discipline decision.

3. Interview Process

- a. Unless the seriousness of an investigation requires otherwise, the interview shall be conducted when the member is on duty or during the deputy's normal waking hours. If the interview is conducted when the member is off duty, the member shall be compensated appropriately.
 - b. The member may have a representative of the member's choosing present at the interview.
 - c. No more than two interviewers at a time may question the member.
 - d. The interviewers shall inform the member of their authority to compel a statement and of the identity of the investigators and all persons present during the interview.
 - e. The member is not required to answer questions until the member has been informed of the nature of the investigation and of facts reasonably sufficient to inform the member of the circumstances surrounding the allegations under investigation. This paragraph does not apply to preliminary questions directed at gaining a general overview of events in order to assess whether an inquiry is necessary and to effectively investigate and gather evidence.
 - f. The interview may not last an unreasonable amount of time, taking into consideration the gravity and complexity of the matter under investigation.
 - g. During the interview, the member shall be allowed to attend to physical needs.
 - h. Except as provided in subparagraph (B) of this paragraph, the member being interviewed may not be threatened with punitive action or subjected to offensive language.
 - i. In a compelled interview solely for noncriminal purposes, a member who refuses to respond to questions or to be interviewed shall be informed that refusal may lead to disciplinary action.
 - j. The member may record the interview and shall be given a copy of the tape or digital file of the interview and, upon request, a transcript of any recording that has been transcribed by the employer.
 - k. Materials required to be given to the member under this paragraph shall be given before subsequent interviews in the course of the same investigation.
 - l. As soon as it is determined that the member may be charged with a criminal offense, the member shall be informed of the member's right to consult with criminal defense counsel with respect to the criminal charge.
 - m. In a disciplinary or administrative investigation, the member's chosen representative may not be required to disclose, or be subject to disciplinary action for refusing to disclose, statements made by the member to the representative for purposes of the representation.
 - n. The safeguards provided in subsection (2) of this section do not apply to:
 - The questioning of a member in the normal course of informal verbal admonishment by, or other routine or unplanned contact with, a supervisor or other public safety officer; or
 - An investigation concerned solely with alleged criminal activities.
 - o. Disciplinary action may not be taken against a member without just cause.
4. Following the investigation and interview with the member, the member shall be served with a confidential written notice of proposed discipline. The supervisor of the accused member shall present this notice upon the member at least five (5) days prior to the pre-determined meeting date.
- a. when possible, service shall be made while the member is on duty.
 - b. when on-duty service is not feasible, the member may be served at home.
- The notice of proposed discipline shall include:
- a. the recommended disciplinary action;

- b. the name of the supervisor or higher authority responsible for the decision to impose the proposed discipline;
 - c. a time and date when exculpatory material or mitigating factors may be submitted at an informal hearing which may be recorded;
 - d. the member's right to appeal and appellate procedures;
 - e. a meeting date, time and place where the member may present any information relevant to the proposed discipline to be considered prior to the final determination of discipline to be imposed; and
 - f. a copy of the investigative report.
5. Except as provided in paragraphs (b) and (c) of this subsection, the supervisor shall complete his/her investigation into an allegation of misconduct by a deputy and provide notification under subsection (4) of this section no later than six months from the date of the first interview described in subsection (3) of this section. The supervisor may extend the investigation to a maximum of 12 months from the date of the first interview, provided that, before the extended period begins, the supervisor provides written notice explaining the reason for the extension to the deputy and the deputy's chosen representative and association representative, if any.
- (b) The time limit provided in paragraph (a) of this subsection does not apply:
 - (A) If the investigation involves a member who is incapacitated or unavailable.
 - (B) If the investigation involves an allegation of workers' compensation or disability fraud by the member.
 - (C) If the member waives the limit in a signed writing.
 - (D) If the investigation requires a reasonable extension of time for coordination with one or more other jurisdictions.
 - (E) If the investigation involves more than one member and requires a reasonable extension of time.
 - (c) For the purposes of the time limit provided in paragraph (a) of this subsection:
 - (A) If the alleged misconduct is also the subject of a criminal investigation or criminal prosecution, time does not run for the period during which the criminal investigation or criminal prosecution is pending.
 - (B) If the investigation involves a matter in civil litigation in which the member is a named defendant or the member's actions are alleged to be a basis for liability, time does not run for the period during which the civil action is pending.
 - (C) If the investigation is the result of a complaint by a member charged with a crime, time does not run for the period during which the criminal matter is pending.
6. An investigation may be reopened if:
- (a) Significant new evidence is discovered that is likely to affect the outcome of the investigation; and
 - (b)(A) The evidence resulted from the member's pre-disciplinary response; or
 - (B) The evidence could not have been discovered by the supervisor without resorting to extraordinary measures.

J. Meeting With the Supervisor Imposing Discipline

- 1. Prior to the implementation of discipline, a meeting with the supervisor shall be convened upon the request of a member against whom charges and specifications alleging misconduct have been filed, in order to consider such charges.
- 2. The meeting proceedings shall comply with the charged member's due process rights. An Association representative shall be allowed to be present at a member's request at any meeting between the

member and any investigating official, or supervisor, in which the member reasonably believes that discipline may result from the meeting and/or investigation.

3. The supervisor shall make a final decision as to the imposition of any disciplinary measures.
4. Upon the determination that disciplinary action, other than termination of the member, is merited, the appropriate supervisor shall prepare and submit a statement to the member, including the following:
 - a. the principal reason for the disciplinary action;
 - b. the specific discipline to be imposed;
 - c. the effective date of the discipline; and
 - d. the appeal procedure available to the member.

K. Suspension without Pay, Demotion or Termination of an Employee

1. Any allegation that could potentially result in termination (the Internal Affairs function level) shall immediately be brought to the Sheriff's attention.
2. A member who is the subject of proposed suspension without pay, demotion or termination will receive written notification of charges similar to the notification specified in section I.3 from the Sheriff. This notification will also contain the following:
 - a. effective date of demotion or termination.
 - b. statement of the member's employment record.

The member can receive the status of fringe and retirement benefits through the County's Human Resources office.

L. Records

1. Oral reprimands shall be documented and communicated to the member in writing but shall not be included in the member's personnel file. A copy may be retained by a supervisor for use in preparing evaluations.
2. Written reprimands and documentation of any more serious disciplinary action shall be forwarded through the chain of command and placed in the affected member's personnel file following the procedures in paragraph 3, below.
3. The Sheriff's Office shall notify a member anytime any new material or information is placed in the member's personnel file:
 - a. any material that reflects discredit on a member may only be placed in his file with the member's signature on it, indicating receipt of the document only, not agreement with the content of the document.
 - b. if a member refuses to sign the document, the Sheriff's Office may place the document in the member's file with a written note indicating the date and in the presence of which management representative the member refused to sign.
 - c. if the member is not available to read and sign a document containing adverse content at the work location where the personnel files are maintained, the Sheriff's Office may place the document in the member's personnel file and mail a copy of the document to the member by regular or interoffice mail.
 - d. a member may write a response within 30 days of being presented with a document containing adverse content. If a member writes a response, it must be attached to the original document and placed in the member's personnel records.
4. Written reprimands may not be considered for progressive discipline reasons one (1) year after being placed in the member's personnel file, provided that no additional disciplinary action has occurred within that one (1) year period.

Members may request the removal of the written reprimand after one (1) year. The reprimand shall then be placed in a sealed file for the duration of the required OAR retention period of three (3) years.

Documentation of discipline resulting in loss of property rights, suspension without pay or for demotion must stay with the personnel file in accordance with record retention laws.

Members may request the removal of the documentation from their personnel file after one (1) year. The decision to remove the documentation is at the discretion of the Sheriff. If removed from the member's personnel file, the documentation will continue to be retained in accordance with record retention laws.

5. Suspensions may not be considered for progressive discipline reasons five (5) years after being placed in a member's personnel file, provided that no additional disciplinary action has occurred within that time period.
6. An Internal Investigation (IA) is to be considered confidential. Records of Internal Investigations are also considered confidential. The retention of Internal Investigation files is as follows (OAR 166-150-0005):
 - a. unfounded or malicious allegations or allegations not sustained: a minimum of three (3) years.
 - b. allegation sustained: ten (10) years after the date of final disposition.
7. Internal release of IA records will be on a right-to-know basis. External release of IA records is not authorized. If a request is made for an Internal Affairs investigation file, that request will be forwarded as soon as possible to the Sheriff. The Sheriff will work with Deschutes County Sheriff's Office legal counsel to make a determination about how the request will be handled.
8. Upon request, a member may inspect his own personnel file at a reasonable time and at the location where the records are kept. If, after inspection, a member believes that any portion of the file is mistakenly or unlawfully placed in the member's file, the member may request in writing that the mistaken or unlawful material be corrected or deleted. The request must describe the corrections or deletions requested, the reasons supporting the request, and any documentation supporting the request. The Sheriff's Office shall respond within 30 days from the date the request is received. If the Sheriff's Office does not correct or delete the material, the Sheriff's Office shall place the request and the Sheriff's Office's response in the member's personnel file.
9. Under the Collective Bargaining Agreement (Section 40), employees have the right to respond in writing to any item placed in the files.
10. All documentation of disciplinary actions, such as letters of reprimand, suspensions, and sustained or unfounded Internal Affairs records, will be destroyed at the expiration of their retention periods.

M. Appeals

1. The member may appeal any decision as outlined in state law, ordinances, collective bargaining agreement or agency procedures.
2. The Sheriff reserves the right to alter or modify any disciplinary action if it is in the best interest of the County.

Any decision by a member to retire or resign will be taken into account prior to discipline being administered. In no way would this resignation or retirement affect pending criminal charges or the ability of this agency to recommend to DPSST that any certification held by that person be revoked.