

# Germantown Police Department

## Policies and Procedures

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**Number:** 1-10  
**Effective Date:** March 13, 2007  
**Subject:** Disciplinary Policy  
**Previous Revisions:** January 1, 2003; September 2, 2004

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### **I. PURPOSE**

This policy is designed to provide a fair and just means for appropriate action when an employee's conduct reflects unfavorably on the department's ability to provide service or is detrimental to effective and efficient operations.

### **II. POLICY**

It is the policy of the Germantown Police Department to impose corrective and disciplinary action fairly and impartially and to offer adequate appeal procedures to ensure that the rights of employees are protected. The procedures set forth herein are intended to provide reasonable means for correcting behavior, in a progressive manner when practical, prior to resorting to dismissal. In addition to the provisions of this policy, employees are subject to the provisions of the City of Germantown Personnel Procedures and Regulations Manual.

### **III. SCOPE**

The provisions of this policy shall apply to all regular full-time, probationary or regular part-time employees of the Germantown Police Department. Regular part-time employees are those who work at least 20 hours per week or more on a continuous basis.

### **IV. DISCUSSION**

The department provides employees with a list of specifically prohibited behavior, referred to as "The Rules of Conduct," however, no list can be all-inclusive. Employees are expected to have a reasonable perception of what constitutes proper behavior based on department values, policies, academy training and community expectations.

The department abides by the philosophy that discipline should be applied consistently and uniformly. Several factors of equity will be considered when determining what level of disciplinary action will be taken: 1) the seriousness of the violation; 2) the message that needs to be conveyed to other employees to prevent similar infractions or to ensure that similar infractions will not occur; 3)

the employee’s previous disciplinary and performance records, 4) the time between other violations and the nature of the violations, and 5) the employee’s attitude in accepting responsibility and the commitment to improve; this includes the employee’s cooperation in the investigation and resolution process.

**V. DEFINITIONS**

Unless otherwise indicated for the purposes of this section:

A. Violation: A failure to comply with:

1. A written departmental rule, regulation, order, policy, or procedure; or
2. An Ordinance of the City of Germantown applicable to personnel governed by the City rules and regulations; or
3. A verbal or written directive given by a person in legal authority acting in the line of duty; or
4. Any binding and applicable provision of the City of Germantown Personnel Procedures and Regulations Manual.

B. Administering Authority: A Supervisor or manager who is specifically empowered under the terms of this section to recommend discipline.

<u>Administering Authority</u>	<u>Level of Disciplinary Action Authorized</u>	<u>Statement of Chgs. Required</u>
Immediate Supervisor	Oral Admonition	Optional
Lieutenant	Oral through written reprimand	Yes
Captain	Oral through 3 days suspension	Yes
Inspector	Oral through 5 days suspension	Yes
Deputy Chief	Oral through termination	Yes
Chief	Oral through termination	Yes

C. Hearing Officer or member: A department Commanding officer or member, a Captain or above.

- D. Appeal Authority: A commanding officer or member or manager in the same chain of command at a higher level than that of an administering authority who hears appeals.
- E. Charging Authority: Any commissioned officer or member, regardless of rank, wishing to file charges against another officer or member for any violation. In the event an officer or member wishes to file charges against another officer or member of equal rank, or of higher rank, the charging officer or member must contact an officer or member of higher rank than the accused for issuance of the Statement of Charges.
- F. Issuing Officer or member: The officer or member, usually of command rank, who is charged with the responsibility of issuing a Statement of Charges when charges are preferred by another officer or member.
- G. Discipline: A process of imposing formal sanctions, which will help train or develop an employee and correct behavior. Discipline in the department involves training, counseling, instruction and, as a last resort, punitive action.

## **VI. STATEMENT OF CHARGES**

The “Statement of Charges” is the official charging document outlining the facts and circumstances of violations of departmental rules, policies, procedures or directives. The Statement of Charges will specify the violation(s), will contain a brief description of the incident constituting the violation, and will outline any discipline recommended.

### **A. Procedures for Issuance**

1. The Statement of Charges will be prepared in detail by the department member discovering a violation, normally an immediate supervisor. This will be the “Charging Officer or member.”
2. The completed Statement of Charges, along with any supporting documentation, will be forwarded to the charged officer or member’s division commander for review. The Division Commander will review the facts and circumstances of the violation(s) and determine if there is sufficient evidence to go forward with issuance.
3. Upon determination that sufficient evidence exists to support the listed charge(s), the Division Commander will forward the Statement of Charges to the Chief of Police or designee, who authorize the issuance of the Statement of Charges and determine the hearing officer or member.

4. The Statement of Charges will normally be issued by the charging officer or member. In the event the charging officer or member is unable to issue the Statement of Charges, another supervisor will become the “issuing officer or member” and will sign the document as such.
5. The charged officer or member will be required to sign the original document, which will be retained by the issuing officer or member for processing. A copy will be furnished to the charged officer or member. The signature of the charged officer or member will attest only that he/she received a copy of the Statement of Charges and will not be construed as an admission to the charge(s) alleged.
6. If the recommended discipline is oral or written reprimand, the Statement of Charges will be placed in the officer or member’s personnel file and no further proceedings will be held on the matter. If the recommended discipline is suspension, demotion, reduction in rank or termination, the following procedures will apply.

NOTE: Issuance of a Statement of Charges as a result of the discharge of a firearm will be at the conclusion of a complete investigation as determined by the Chief of Police.

## **VII. RESPONSE TO CHARGES**

- A. The accused officer or member will be given an opportunity to review the charges and respond, both orally and in writing, to the issued Statement of Charges. The accused officer or member will have a minimum of five (5) calendar days, after issuance, to provide his/her response. The response will be made to the designated hearing authority.
- B. The response will be the officer or member’s opportunity to waive his/her right to a hearing by accepting responsibility for the violation(s) of rules, policy, procedure or directive OR dispute the facts and findings outlined in the Statement of Charges.
- C. If the accused officer or member disputes the facts and findings outlined in the Statement of Charges, in any manner, the designated hearing officer or member, or trial board chairperson, will schedule a hearing to resolve the matter.
- D. In making a response, the accused officer or member may be assisted by counsel at the officer or member’s own expense.

## **VIII. NOTICE OF HEARING**

- A. The designated hearing officer or member will be responsible for scheduling an administrative hearing to examine the facts and circumstances that led to the charges

being placed and determine whether there is sufficient evidence to substantiate the charge(s). The accused officer or member will be given five (5) days minimum to prepare for the hearing. The hearing date will be scheduled within fourteen (14) days of the issuance of the statement of charges. Notification of the hearing date, time and place shall be through a memorandum.

- B. The hearing officer or member will include in the notice of hearing the range of discipline possible if the charges are substantiated (i.e., written reprimand – 5 day suspension).
- C. The charged officer or member may waive his/her right to a hearing by notifying the hearing officer or member in writing prior to the scheduled hearing date. Under this option, the hearing officer or member will schedule a meeting with the charged officer or member to discuss the recommended disciplinary action.

#### **IX. ADMINISTRATIVE HEARING**

- A. The hearing officer or member will be responsible for scheduling a hearing date and conducting an administrative hearing. The hearing officer or member will examine all pertinent information, facts, letters and reports available to ensure a full hearing.
- B. The accused officer or member will have the right to present evidence on his/her behalf, call and cross-examine witnesses.
- C. The accused officer or member may be represented at the hearing by an attorney or any other person of their choice. However, he/she shall not be represented by any person who is also under investigation by the department or involved in the incident, which is the basis for the hearing.
- D. The hearing officer or member shall have the power to subpoena witnesses to compel their attendance, if necessary. Also, the department may administratively compel employees to be present and give testimony at the hearing.
- E. The testimony given during the hearing will be limited to the facts relative to the alleged violation(s). Testimonies given will be tape-recorded and transcribed for the record.

#### **X. TRIAL BOARD**

- A. Depending on the nature and seriousness of the violation(s), the Chief of Police may convene a panel of supervisory members to review the allegations and conduct the administrative hearing. This panel will be known as the “trial board.”

- B. Violations of rules, policies, procedures or directives that could result in disciplinary action more severe than five (5) days suspension will normally require the trial board review process.
- C. The trial board will be comprised of three (3) department supervisory members. The Chief of Police will designate one member as the trial board chairperson. The trial board chairperson will be responsible for facilitating trial board hearings and preparing the hearing summary.
- D. The same procedures outlined in Section IX, Administrative Hearing, will also apply to the trial board process.

**XI. HEARING SUMMARY**

- A. At the conclusion of the hearing, the hearing officer or member, or trial board chairperson, will complete the “hearing summary” form. The hearing summary will include the date, time and place of the hearing. It will also include a list of persons that were present or gave testimony. The hearing officer or member, or trial board chairperson, will summarize the hearing outlining pertinent facts. The hearing officer or member, or trial board chairperson, will note his/her findings and any recommended disciplinary action.
- B. The hearing summary will be signed and dated by the charged officer or member and the hearing officer or member or trial board chairperson.

**XII. APPEAL PROCEDURE**

- A. Disciplinary action more severe than a written reprimand may be appealed.
- B. The accused officer or member must notify the hearing officer or member or trial board chairperson, in writing, within three (3) working days of the conclusion of the hearing, if an appeal is desired. The accused officer or member must state the basis for such appeal.
- C. If the matter is to be appealed, the hearing officer or member or trial board chairperson will forward the hearing summary and entire file to the City Administrator for review.
- D. The appeal to the City Administrator will be limited to a review of the record created, as well as any further investigation the City Administrator deems necessary to conduct in his/her sole discretion. The accused officer or member’s counsel, if any, may not participate in the appeal.

- E. The appeal to the City Administrator shall be the last stage in the departmental review and appeal procedure.
- F. If the City Administrator upholds the discipline, it shall be considered effective on the date of the initial finding. If the City Administrator reverses the discipline, any documentation reflecting such discipline shall be removed from the employee's personnel file.
- G. Failure to file an appeal within the three day period forfeits any future right related to the subject hearing, findings and action.

### **XIII. DISCIPLINARY ACTION**

Depending on the nature and seriousness of the allegation(s) disciplinary action will take one of the following forms:

- A. Oral reprimand; or
- B. Written reprimand; or
- C. Probation with conditions; or
- D. Suspension without pay; or
- E. Reduction in rank; or
- F. Termination

### **XIV. WORK STATUS**

Depending on the nature and seriousness of the allegations, an officer or member under investigation will remain in pay status and may:

- A. Continue in normal duties; or
- B. Be placed in the non-enforcement duties; or
- C. Be temporarily relieved of all duties.

When a criminal investigation is in progress, work status shall be the same as defined above until the appropriate authority completes its investigation with sufficient results to support final administration disposition with respect to the employee's further employment status.

Depending upon the nature of the charge and the outcome of the investigation, an officer or member who is formally charged or indicted for a criminal offense will be:

- A. Restricted to non-enforcement duties; or
- B. Suspended from duty with or without pay; or

C. Dismissed.

An officer or member who becomes a defendant in a criminal trial and has not been dismissed will not be compensated for trial related periods spent away from assigned duties.

**XV. OBSERVED BEHAVIOR REPORTS (OBR)**

- A. Observed Behavior Reports (OBR) are used by supervisory personnel to document job performance of members during each evaluation rating period. The reports will be used by the supervisors to document job performance, positive or negative, that does not rise to the level of a commendation, formal discipline, or a Statement of Charges (i.e., handling a difficult situation well, inspection documentation form, first late occurrence, letter from a citizen, etc.).
- B. The supervisor will complete the report and have the employee sign it indicating that he/she has reviewed it. The supervisor will provide the employee with a copy of the report. The original report will be kept in the employee's evaluation file (for uniform patrol personnel) or another location designated by each Division Commander.
- C. At the end of each evaluation period, the OBRs will be attached to the performance evaluation document and placed in the employee's personnel file.
- D. The observed behavior reports will remain in the employee's personnel file until the next performance evaluation is completed and filed (maximum one year). At that time, the forms will be removed from the permanent record of the employee.

**XVI. REVIEW PROCESS**

An annual review of this policy will be conducted to determine if it should be revised, cancelled or continued in its present form.

This order shall remain in effect until revoked or superseded by competent authority.