



MILWAUKEE POLICE DEPARTMENT

STANDARD OPERATING PROCEDURE

870 – SUSPENSIONS / OFFICIAL DISCIPLINE

GENERAL ORDER: 2022-XX
ISSUED: August 1, 2022

EFFECTIVE: August 1, 2022

REVIEWED/APPROVED BY:
Assistant Chief Nicole Waldner
DATE: June 24, 2022

ACTION: Amends General Order 2017-25 (April 25, 2017)

WILEAG STANDARD(S): 4.2.1, 4.2.2, 4.2.3, 4.2.4

870.00 PURPOSE

The purpose of this standard operating procedure is to provide procedures and guidelines pertaining to suspensions and official discipline regarding department members.

870.05 POLICY

It is the policy of the Milwaukee Police Department that any suspension or discipline administered to an employee shall be based on fairness and complies with all standard operating procedures, the Code of Conduct and Wisconsin state statutes.

870.10 FORMAL DISCIPLINE (WILEAG 4.2.1)

A. CRITERIA

Formal discipline may be used to correct employee behavior that has not been corrected by counseling or was a more serious violation of a standard operating procedure or Code of Conduct.

B. TYPES OF DISCIPLINE

1. District level written reprimand.
2. Official reprimand.
3. Suspension without pay.
4. Demotion of rank.
5. Discharge from department.
6. Termination (applicable for probationary members only)

Note: With the exception of the commanding officer assigned to the Internal Affairs Division, who may only impose a District Level Written Reprimand to any department member (below the rank of Captain), all formal discipline shall be rendered by the Chief of Police.

C. DISCIPLINE MATRIX

A guide which identifies factors that shall be considered by the Chief of Police during his/her disciplinary decision process for a violation of a standard operating procedure or Code of Conduct.

D. RECOGNITION OF EMPLOYMENT RIGHTS AND PROCEDURAL SAFEGUARDS

1. The department recognizes employee rights as afforded by the federal and state constitution, [Wis. Stat. § 164](#), state law, case law and contractual language.
2. All supervisors shall adhere to all applicable employee rights when conducting internal investigations. The chief of police shall also abide by all applicable employee rights while imposing discipline.
(WILEAG 4.2.1.2, 4.2.1.3)

870.15 SUSPENSION PROCEDURES (WILEAG 4.2.1, 4.2.2)

A. SUSPENSION AUTHORITY

1. A captain of police or higher rank may suspend a department member from duty for any violation of department standard operating procedures and/or Code of Conduct. A lieutenant assigned to the Internal Affairs Division shall have the same authority for purposes of suspension. Only the Chief of Police may suspend a department member holding the rank of captain or above.
2. A suspended department member shall not be restored to duty while the investigation or hearing of the charges is pending, except as directed by the Chief of Police or designee.

B. NOTIFICATION AND TEMPORARY SUSPENSION OF MEMBER REPORT (PD-41E)

1. The commanding officer, or member of higher rank, who suspended the member shall notify the Internal Affairs Division as soon as practicable. The supervisory officer shall also submit a *Temporary Suspension of Member Report* (form PD-41E) to Internal Affairs Division.
2. Whenever a commanding officer, or member of higher rank, suspends any department member assigned to a different work location, he/she shall promptly notify the commanding officer of the suspended member as well as the executive command staff via email.

C. EQUIPMENT

1. Any department member under suspension shall immediately surrender the following items of department-issued equipment, if applicable, a supervisor from the member's current work location when practicable. In circumstances where a supervisor from the member's work location cannot be present, any supervisor on scene may be used. If no supervisor is available, a supervisor from the Internal Affairs Division shall collect

the required equipment and deliver it to the member's assigned work location. The surrendered equipment shall be retained in a secure place at the member's assigned work location and returned to the member by their commanding officer or designee upon returning to duty. The equipment shall not be inventoried. In extraordinary cases, the equipment may be stored at another work location as determined by the Chief of Police or designee.

- a. Handgun;
 - b. Regulation/second metal badge;
 - c. Cap shield;
 - d. Identification card;
 - e. Call box key (if applicable);
 - f. Oleoresin capsicum;
 - g. Expandable and long baton;
 - h. Handcuffs;
 - i. Police radio;
 - j. Body armor;
 - k. Body worn camera (if applicable).
2. If only the member's police powers are suspended, the member may retain their identification card and call box key, if applicable.
 3. Police members shall not wear their uniforms during any period of suspension.

D. REPORTING TO COMMANDING OFFICER

Any department member whose suspension with pay exceeds seven (7) consecutive calendar days shall report to their commanding officer, or shift commander if the commanding officer is unavailable, on a weekly basis (or more often as determined necessary by the commanding officer) during the member's normal duty hours. Such meetings allow for the service of departmental correspondence and the exchange of any other information that may be important for the member during an extended period of leave.

E. MEMBER RESPONSIBILITIES

1. Department members who are suspended or discharged pending appeal shall conform to and abide by department standard operating procedures and/or Code of Conduct. Failure to comply with department standard operating procedures and/or

Code of Conduct during the period of suspension or discharge pending appeal shall subject the member to additional charges of misconduct.

2. Police members who are suspended or discharged pending appeal are relieved of the responsibility to perform those tasks requiring the exercise of official police action. Such police members are not deemed to be peace officers and shall not go armed with a concealed or dangerous weapon (as defined by state statutes), in an official capacity.
(WILEAG 4.2.1.2)

870.20 FORMAL DISCIPLINARY CHARGES (WILEAG 4.2.1, 4.2.2)

A. AUTHORIZATION

Formal disciplinary charges may be preferred with the approval of the Chief of Police against any department member for any violation of the department standard operating procedures and/or Code of Conduct. Only a command officer assigned to the Internal Affairs Division may prefer formal disciplinary charges.

B. CHARGE SPECIFICATION

1. A charge specification is a statement of facts which constitute the offense charged. Charge specifications shall contain clear and concise language, shall state the name and rank of the accused, and the date and place of the alleged offense.
2. Charge specifications shall be prepared and signed by a commanding officer of the Internal Affairs Division.

C. NOTIFICATION LETTER

1. If formal disciplinary charges are preferred against a department member, either sworn or civilian, the Internal Affairs Division shall personally serve the notification letter on the accused member along with a copy of the formal disciplinary charges and a copy of the investigating supervisor's summary of the investigation.
2. The notification letter shall provide an opportunity for the accused department member to file a *Department Memorandum* (form PM-9E) to the Chief of Police explaining the member's conduct.
3. A copy of the notification letter, formal disciplinary charges and the investigating supervisor's summary of the investigation shall also be sent to the accused member's labor organization, if applicable, via U.S. mail, which may be certified.

D. DEPARTMENT MEMORANDUM (PM-9E) REPORT SUBMITTED BY MEMBER

1. The accused department member may consult with a representative of their choice in the preparation of the *Department Memorandum* (form PM-9E). If the department member chooses to submit this report, it must be received by the Internal Affairs Division no later than 4:00 p.m. on or before the 10th day following the date the

- member received the notification letter. If the 10th day falls on a weekend or a holiday, this report may be submitted on the next regular business day.
2. The department member's *Department Memorandum* (form PM-9E) may include a statement of the accused member's side of the story, including any mitigating factors or circumstances, and the name, address, telephone number, and nature of information possessed by any additional witnesses whom the member wishes department investigators to interview.
 3. The Chief of Police shall consider the accused member's *Department Memorandum* (form PM-9E) before making any decision regarding guilt or innocence or imposition of discipline. If the department member chooses not to provide a report, the Chief of Police shall base his/her disciplinary decisions solely upon the information possessed by the department including the Discipline Matrix.

Note: Nothing contained herein shall preclude the Chief of Police from requiring a written statement if deemed necessary.

E. DISPOSITION

Charges preferred against any department member shall be heard and disposed of directly by the Chief of Police.
(WILEAG 4.2.1.2)

870.25 CIVILIAN MEMBERS FACING POSSIBLE DISCHARGE (WILEAG 4.2.1)

Civilian members facing possible discharge shall follow a due process procedure including notice of charges and an opportunity to respond in writing in the form the *Department Memorandum* (form PM-9E) to the Chief of Police.
(WILEAG 4.2.1.2)

870.30 NO FORMAL CHARGES BROUGHT

When no charges result against a member from an investigation, the Internal Affairs Division shall so inform the member as soon as practicable, or within 120 consecutive calendar days. The member shall also be informed that if new information on the matter subsequently comes to the attention of the department, the department may still bring charges against the member. If a new investigation is authorized based on new information, the member shall be notified of this fact by the Internal Affairs Division as soon as practicable.

Note: Nothing herein shall limit or otherwise impair the department's right to conduct a criminal investigation without notice to a department member except as it may be required under applicable law. Notifications under this section shall be made by the Internal Affairs Division.

870.35 OFFICIAL DISCIPLINE FORM (PD-40)

An *Official Discipline Form* (form PD-40) shall be used in all cases when a department member receives official discipline, other than a PD-30E, termination, or discharge, as the

result of a department order.

870.40 OFFICIAL DISCIPLINE PROCEDURES (WILEAG 4.2.1, 4.2.2, 4.2.3, 4.2.4)

A. INTERNAL AFFAIRS DIVISION RESPONSIBILITIES

The Internal Affairs Division shall:

1. Distribute the PD-40.
2. Complete the top portion of the PD-40 and deliver the PD-40 to the commanding officer of the member receiving official discipline.
3. Retain the original PD-40 after completion by the member's commanding officer.

B. COMMANDING OFFICER'S RESPONSIBILITIES

1. Upon receipt of the PD-40, the commanding officer of the member involved shall in a timely manner:
 - a. Provide a copy of the PD-40 to the member.
 - b. Ensure the member understands the specific infraction of the department's standard operating procedures and/or Code of Conduct that was committed to include the reason, scope and effective date of discipline.
(WILEAG 4.2.3.1)
 - c. Advise the member of his/her appeal and/or hearing rights.
(WILEAG 4.2.3.2)
 - d. Explain to the member the principles of progressive discipline and that any future incident(s), whether related to the current incident or not, may result in a more severe penalty.
 - e. Require the member to read those sections of department standard operating procedures and/or Code of Conduct that apply.
 - f. Sign and date the PD-40 and return the original to the commanding officer of the Internal Affairs Division.
2. Notify the Human Resources Division that the above was accomplished.

C. PD-40 RETENTION

The original PD-40 shall be retained at the Internal Affairs Division, and a copy shall be retained in the member's personnel file at the respective work location according to the current record retention schedule.

870.45 DISTRICT LEVEL WRITTEN REPRIMAND

- A. A *District Level Written Reprimand Form* (form PI-38) shall be used in all cases when a department member receives formal discipline from the commanding officer of the Internal Affairs Division.
- B. A written status report chronicling all *District Level Written Reprimands* issued by the commanding officer of the Internal Affairs Division shall be provided to the Inspector of Police of the Administration Bureau every thirty (30) days for review. The report will reflect the violation and the sanction category.

870.50 NON-DISCIPLINARY CORRECTIVE ACTION

- A. The purpose of non-disciplinary corrective action is to resolve a conduct problem or proactively address an area of concern regarding a member's conduct or performance by providing guidance in a timely manner. The employee does not experience any loss of rights, remuneration, or benefits. Providing non-disciplinary corrective action does not preclude the rights of the department to initiate an internal investigation into the same conduct. When an officer or employee violates the same component of the Code of Conduct, Standard Operating Procedures, Standard Operating Instructions or training four (4) or times in a three-year period, the minor violation/infraction shall not be resolved through non-disciplinary corrective action. In such circumstances, formal investigation is required.
- B. Supervisors may contact the Internal Affairs Division to determine if the action should result in non-disciplinary corrective action or a formal investigation.
- C. Non-disciplinary corrective action may include:

- 1. Counseling

Counseling is a non-punitive component of the MPD disciplinary process intended to correct minor acts of employee misconduct and/or address potential concerns. Counseling affords supervisors the opportunity to proactively discuss improvement strategies with the employee in relation to work performance deficiencies, minor acts of misconduct and/or personal matters. Supervisors shall document the counseling on a *Department Memorandum* (form PM-9E) or in the AIM system if the conduct relates to a specific reported incident (use of force, pursuit, squad accident, traffic stop, Terry stop (field interview), no-action encounter).

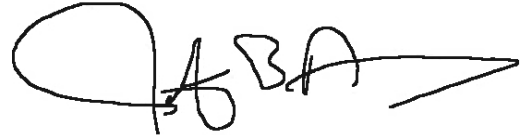
- 2. Policy Review

Policy review is a non-punitive component of the MPD disciplinary process intended to correct minor violations of the Code of Conduct, Standard Operating Procedures or Standard Operating Instructions. Supervisors will conduct a policy review related to the violation, instructing the member to read and acknowledge the specific policy they violated. Supervisors shall document the policy review on a *Department Memorandum* (form PM-9E) or in the AIM system if the conduct relates to a specific reported incident (use of force, pursuit, squad accident, traffic stop, Terry stop (field

interview), no-action encounter).

3. Remedial Training

Remedial training is intended to correct or improve deficiencies in performance. Remedial training is not discipline and shall not be presented as such. It is intended to improve members' abilities and confidence in the performance of their duties. See SOP 082.30 (Training and Career Development) for further information regarding remedial training.

A handwritten signature in black ink, appearing to read 'JBN' followed by a stylized flourish.

JEFFREY B. NORMAN
CHIEF OF POLICE

JBN:mfk