

Billerica Police Department 	POLICY NUMBER ADM - 11	PAGES 5	EFFECTIVE 4/1/17
	Accreditation Standards: 26.1.1, 26.1.4, 26.1.5; 26.1.6; 26.1.7; 26.1.8 General Orders:		
Disciplinary Procedures			

I. General Considerations and Guidelines

Under most circumstances, the term “discipline” is incorrectly interpreted to be solely a negative form of punishment. This directive reflects the term ‘discipline’ in its broader sense, as in having a “highly disciplined department.” In this usage, discipline takes on a positive connotation and is associated with conformance to a set of rules, a code of ethics and a high standard of conduct that results in a departmental image of professionalism. Department disciplinary policy differentiates between exemplary performance, performance deficiencies and intentional acts.

Exemplary performance should be recognized and/or rewarded.

Performance deficiencies may be the result of the lack of training, knowledge or experience on the part of an employee and may be corrected through training or mentoring.

Intentional wrongful acts, on the other hand, are a more serious matter. An employee must make a conscientious decision to disobey a department rule or policy, or a state or federal statute. These acts may be subject to discipline up to and including dismissal and/or criminal prosecution.

This disciplinary directive enables all officers and employees to know what is expected of them and to understand that appropriate discipline will be administered when required. Essential fairness and justice are the foundation of this process.

II. Policy

It is the policy of the department that:

- A. Discipline will be administered in a fair, timely and consistent manner.
- B. When appropriate, discipline will be directed toward ensuring that employees have an opportunity to correct deficient performance.
- C. Employees are regularly told of their performance deficiencies and when sanctions are to be applied.
- D. Discipline is consistent with the seriousness of the offense and the employee's prior record. The Town reserves the right to impose discipline up to and including termination for an offense of a serious nature.
- E. The department’s disciplinary process includes training, rewarding, counseling and punitive actions in the interest of discipline.
- F. The discipline process is a positive process that is used to train and develop by instruction.

III. Definitions

- A. *Discipline*: Any one of several actions designed to produce a pattern of behavior including, but not limited to, reprimand (oral and written); suspension; demotion; discharge; as well as reward, recognition, training and counseling.
 - 1. Note: When an employee's conduct is of such a nature that continued employment is not appropriate, termination is warranted. Nothing in this policy is meant to expand the definition of discipline contained in the Civil Service law or any applicable collective bargaining agreement.
- B. *Competent Authority*: Any person authorized by law or policy to issue orders or directives.

IV. Procedures

A. Adherence to Directives

- 1. Employees will, at all times, adhere to the Laws of the Commonwealth, Rules and Regulations of the Billerica Police Department, the procedural guidelines set forth in this electronic manual, and any other department directives. **[26.1.1]**
- 2. All sworn and non-sworn personnel, upon appointment to the Billerica Police Department, shall have access to and shall become familiar with the Police Department's Rules & Regulations Manual, Policy & Procedure Manual and other directives issued by the Chief of Police or other competent authority.
- 3. Employees are required to obey any lawful order of a superior, including any order relayed from a superior by an employee of the same or lesser rank.
- 4. Failure to comply with the Rules & Regulations, to adhere to the Policies & Procedures of the Police Department, to obey the orders of a superior, or to obey any other directives issued by a competent authority may result in disciplinary action against an employee.

B. Role and Authority of the Supervisor [26.1.5]

- 1. First Line Supervisors
 - a. The first-line supervisor's familiarity with his/her personnel allows him/her the best opportunity to observe or foresee disciplinary problems and to determine the most appropriate methods to deal with them.
 - b. First line supervisors bear the primary responsibility for the conduct, discipline, and performance of all personnel under their supervision and the basic accountability for failure to take warranted disciplinary action.
 - c. They shall be responsible for recognizing poor performance and for uncovering any evidence of corruption, dishonesty, or malfeasance by personnel under their command.
- 2. All supervisors have a duty to ensure that discipline is maintained within the department. It must be remembered that discipline can be positive in nature and may include recognizing and rewarding exemplary performance, training, and counseling.
- 3. The following is an outline by rank and command level of authority of supervisors to discipline their subordinates: (Each supervisor should also be aware of his/her duties as specified in the Police Department Manual of Rules and Regulations):

- a. Lieutenants and Sergeants have the authority to counsel, evaluate, praise, issue letters of commendation in recognition of exemplary individual performance, and recommend for awards and decorations. They also have the authority to orally reprimand, issue letters of counsel and warning, and recommend a formal written reprimand or more serious punitive disciplinary action, as appropriate.
 - b. The Assistant Chief has all of the above authority and additionally the authority to issue letters of reprimand and letters of commendation in recognition of individual or group achievements.
 - c. The Chief of Police has all the above authority, plus the authority in accordance with the law and the provisions of any applicable collective bargaining agreement to impose punishment.
 - d. Any superior officer who is directed to act in the capacity of a rank above his/her ordinary or usual rank shall, for that period of time, possess the authority of that rank.
4. All supervisors have the authority to initiate an emergency suspension with pay and relieve from duty an employee whom they deem to be unfit for duty. Supervisors may suspend any employee for the balance of a work day under any of the following conditions:
- a. Prescription drugs or a controlled substance;
 - b. Insubordination or misconduct;
 - c. Any violation of criminal law;
 - d. Any serious violation of department rules and regulations that would subject the violating employee to discipline;
 - e. Falsifying a statement or record;
 - f. Abusing, stealing, damaging, destroying, or defacing property or equipment of the department or others;
 - g. Any time the officer is not fit for duty.
5. Supervisors will notify the Assistant Chief of any instance where an employee has been suspended under any of the above circumstances. The suspending supervisor will submit a detailed report to the Assistant Chief at or prior to the end of the shift.

C. Types of Discipline **[26.1.5]**

- 1. Positive
 - a. Letters of Commendation are given for exemplary performance or achievements and for awards and decorations for accomplishments or heroism.
 - b. Supervisors may submit a written recommendation and appropriate supporting documentation through their chain of command to a superior who is authorized to issue such letter, award or decoration.
- 2. Corrective:
 - a. Counsel employee: to correct performance deficiencies. Document the condition(s) that prompted the counseling session and corrective action expected. Maintain the results for review, and at the Chief's discretion may file the documentation in the employee's personnel file, retention consistent with Rules and Regulations. **[26.1.4(b)]**

- b. Remedial training: when training, job knowledge, or experience is at the root of performance deficiency. Document the employee's shortcomings, deficiencies, or lack of expertise. Take immediate steps to retrain in the deficient areas or schedule the employee for training. Maintain the results for review, and at the Chief's discretion may file the documentation in the employee's personnel file.

[26.1.4(a)]

3. Punitive: First line supervisors will forward recommendations for punishment and all supporting documentation in writing to the Assistant Chief. It will be the decision of the Chief to determine if punishment is warranted. **[26.1.4(c)]**

D. Imposition of Punishment [26.1.5]

1. Notice of Disciplinary Action: In all cases where punitive discipline is imposed, Notice of Disciplinary Action will be served in writing prior to the effective date of imposition. The Notice will include violation(s) specifications, the disciplinary action to be taken, and the effective date of imposition of discipline.
2. If punishment is warranted, the type of punishment and effective date of imposition will also be determined as follows: **[26.1.5]**
 - a. Counseling: (informal conference and/or oral reprimand) – the lowest level of punishment which may be appropriate when other methods have failed to bring about an appropriate change in performance or in response to minor intentional misconduct.
 - b. Written warning or deficiency notice: the second level of punishment for minor offenses with some recent disciplinary action, or moderately serious offenses with little or no recent, prior disciplinary action. Written warnings should include the following:
 - 1) Details of Offending Conduct: specify dates, times, persons present, location, etc.
 - 2) Rules Violated: list which rules and regulations or what orders or standards of conduct were involved.
 - 3) Require Future Conduct: make it clear what conduct is required. Specify an *order* if there is any doubt.
 - 4) Signatures: the supervisor should sign and request the employee to sign also (acknowledging **receipt** not necessarily admitting wrong). Note a refusal by an employee to sign the receipt. Refusal to do so is insubordination and may result in additional discipline.
 - 5) Comments by Employee: provide space for employee comments or rebuttal, or afford the employee the opportunity to submit a written reply and have it attached to the written notice/warning.
 - c. Punishment Duty: Extra, unpaid duty in lieu of suspension, not in excess of five days may be imposed by the Chief with the agreement of the employee being punished.
 - d. Suspension: for a moderately serious offense with some recent disciplinary action or for a serious offense. The severity of offense should be commensurate with the length of suspension.
 - 1) Short Term Suspension - of not more than five days may be imposed by the Chief of Police or his designee.

- 2) Long Term Suspension: of more than five days may be imposed by the Appointing Authority at the direction of the Chief of Police.
- e. Demotion: In lieu of dismissal for a supervisor. A demotion of one or more ranks may be imposed by the Appointing Authority at the recommendation of Chief of Police.
- f. Dismissal: for the most serious of offenses, patterns of misconduct or deficient performance.
 - 1) The discharge of an employee may be directed by the Chief of Police.
- 3. In the event that an employee is dismissed, the Chief of Police shall ensure that the employee to be dismissed is provided with a written notice advising of the following **[26.1.7]**:
 - a. The reason for dismissal;
 - b. The effective date of dismissal;
 - c. The status of fringe benefits after dismissal; and
 - d. The status of retirement benefits after dismissal.
- E. Appeals: Employees may appeal their disciplinary action imposed in accordance with the employee's respective collective bargaining agreement **[or MGL c31, s41-45]**. **[26.1.6]**

Records: Records of disciplinary actions shall be maintained in the personnel files of the affected employee by the Chief of Police. For further information see the department policy on Agency Records. **[26.1.8]**