DOUGLAS COUNTY SHERIFF'S OFFICE		Policy and Procedure
Personnel Investigations **Definition of Terms**		**P&P-I-100**
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References: PP-C-106, PP-I-102, PAT-N-228, Garrity v. New Jersey	Reevaluation Date: Annually	Standards: CALEA LE 26.1.4, LE 26.1.6, COM 1.4.1, 1.4.8, 3.6.5, 3.6.7, ACA 7E-01 5th Edition

I. DEFINITION OF TERMS

Administrative Insight

An articulation, from the member's supervisor, states the findings of the investigation and recommends disciplinary action, if any.

Administrative Leave with Pay <COM 1.4.8>

Temporary relief from duty with pay. Administrative leave is not disciplinary action and may be ordered by the senior ranking supervisor on-duty. The Sheriff and Division Chief will be notified of the administrative leave through the chain of command and reasons therefore as soon as possible. The member's division chief, or designee, may elect to obtain the member's Office identification card, badges, keys, cell phone, pager, and any Office issued weapons and ammunition, however, in certain circumstances this should be coordinated with the Internal Affairs Commander, the affected employee's Division Chief and the Undersheriff. Access to the Douglas County computer network may be suspended. Circumstances that justify administrative leave with pay may include, but are not limited to:

- The member faces pending disciplinary action, serious policy violation or criminal violation and the Division Chief or senior ranking supervisor determines the member's presence could cause a disruption to the good order of the Office.
- The member has used his/her firearm in the performance of duty (except to euthanize an animal or at sanctioned training).
- The member has used force that resulted in death or serious bodily injury.
- The member's action in an official capacity resulted in death or serious bodily injury.
- The member is involved in a serious accident involving a County vehicle.
- The member is not fit for duty due to alleged drug or alcohol use, or some other physical or mental impairment.
- It is determined to be in the best interest of the employee, the Sheriff's Office, or the public.

Administrative Leave without Pay <COM 1.4.8>

Temporary relief from duty without pay. Administrative leave without pay will not be considered disciplinary action, and will be ordered only by the Sheriff, Undersheriff, or Division Chief. The member's division chief, or designee, will obtain the member's Office identification card, badges, keys, cell phone, pager, and any Office issued weapons and ammunition. Access to the Douglas County computer network will be suspended.

Administrative Review
A review initiated and conducted by Internal Affairs personnel into situations / circumstances pertaining to Sheriff's Office personnel, policies and / or best practices. If a policy violation is discovered as the result of an Administrative Review, a separate Internal Affairs investigation may result.

Appeal <COM 3.6.7>
Members of this Office have the opportunity to appeal disciplinary findings. If a member resigns pending an investigation, the investigation is still completed, and the member waives his/her right to appeal. Written appeals submitted by the member must state a substantial basis for the appeal in order to be considered. The member must submit any appeals in memorandum format. See PP-I-102 *Disciplinary Actions* for further information and procedures. <LE 26.1.6><7E-01>

Blue Team (Personnel Comment Reports) (PCRs)
A report that is completed upon the receipt of a complaint, a complimentary comment or commendation, a pursuit review, a use of force incident or an officer motor vehicle crash. Each of the six circumstances utilize a separate PCR form specific to the type of incident. As an inquiry, this report initiates a preliminary investigation and may represent the complete investigation. A commendation PCR report should be used as an Awards nomination.

Business Days
Business days are defined as the days between and including Monday through Friday, and do not include weekends or county holidays.

Commanding Officer
The head of the division of the member under investigation, whether or not such person is a sworn officer.

Complaint
An allegation of misconduct. Citizen inquiries into procedural or operational issues do not constitute a complaint (service inquiry).

Serious policy violations will be handled by Internal Affairs; see *Internal Affairs (IA) Investigations.*

Policy violations such as disobedience to orders, performance of duty, on/off-duty conduct, willful misconduct, and repeated PCR investigations will generally only be accepted up to one year after the date of occurrence. Exceptions to the time deadline may occur due to allegations reported as a result of an on-going court proceeding that has passed the deadline.

Confidential Investigation
An allegation of misconduct in which it would be detrimental to the investigation to follow the standard notification procedures, as determined by the Sheriff, Undersheriff, or the

Internal Affairs Commander. Internal Affairs will conduct these investigations at the direction of the Sheriff or Undersheriff.

Demotion
Reduction in rank.

Disciplinary Action
A punitive action taken in response to a violation of a policy, an order, or law, intended to modify a specific type or pattern of behavior.

External Complaint
Complaints made by citizens or any entity outside of the Douglas County Sheriff's Office. All complaints will be accepted, whether made in person, by a third party, over the telephone, mailed anonymously or through the media. If the complainant appears to be intoxicated, they can be asked to make an appointment when their condition improves.

Garrity Advisement
An advisement of immunity established through *Garrity v. New Jersey, 385 U.S. 493 (1967)*. Once provided with a Garrity Advisement, a public employee may be terminated if he/she refuses to answer questions specifically, directly and narrowly related to official duties; and may be terminated if the answers provide cause for dismissal.

Inquiry
See '*Service Inquiry*'.

Internal Affairs (IA) Investigations
Serious policy violations that include, but are not limited to discrimination, sexual harassment, violation of local, state or federal laws, use of force, repeated preventable traffic accidents, and other complaints as may be determined by the Sheriff, Undersheriff, or Division Chief. Any policy violation by a member who has been placed in probation status due to disciplinary procedures will be an IA investigation. IA complaints will be accepted and investigated regardless of the date of occurrence. <COM 1.4.1ab>

Minor policy violations may also be handled as IA Investigations as directed by the Undersheriff or his designee.

Internal Complaint
Complaints made by a member of the Sheriff's Office. <COM 1.4.1a>

Investigator
Any member of the Sheriff's Office who conducts an internal investigation.

Letter of Counsel<LE 26.1.4b> <COM 3.6.5b>
A letter documenting a formal conversation between a member and a supervisor counseling the member for a performance issue. This is considered to be the next step above a corrective action / coaching notes. A supervisor will prepare the letter, which will contain a brief explanation of the event, the performance deficit, the expected behavior or standard

and a time frame for improvement. A letter of counseling is not punitive. However, as they are performance-related, they may be taken into consideration for transfer, special assignment, or promotional testing processes. Circumstances that justify a letter of counsel may include, but are not limited to:

- Minor policy and procedure violations.
- Minor supervisory issues, such as initial tardiness, sick time abuse, etc.

Letter of Reprimand

A letter documenting a member's reprimand due to a policy violation. A supervisor will prepare the letter, which will contain a brief explanation of the event, the performance deficit, the expected behavior or standard and a time frame for improvement. It is distinguished from a letter of counseling in that it is punitive. The Letter of Reprimand must be issued through and approved by the affected member's division commander prior to issuance to the member. There are two categories of a Letter of Reprimand: a 1-year Letter of Reprimand and a 2-year Letter of Reprimand. Circumstances that justify a letter of reprimand may include, but are not limited to:

- Repeated minor policy and procedure violations.
- Repeated minor supervisory issues, such as tardiness, sick time abuse, failure to report to court.
- A policy and procedure violation that is more serious than a violation that would receive a letter of counsel, but less serious than other disciplinary actions.
  - **1-year Letter of Reprimand:**
    - Issued for policy violations as the result of a PCR Complaint investigation or an Internal Affairs investigation.
    - If a member is suspended for a period of up to three days without pay, a 1-year letter of reprimand must accompany the suspension.
    - The existence of a 1-year Letter of Reprimand in an employee's file may be weighed in the employee's attempts to pursue promotion or reassignment on a case-by-case basis.
  - **2-year Letter of Reprimand:**
    - Issued for policy violations as the result of an Internal Affairs investigation.
    - If a member is suspended for a period of more than three working days without pay, a 2-year Letter of Reprimand must accompany the suspension.
    - A 2-year Letter of Reprimand must accompany a demotion.
    - The existence of a 2-year Letter of Reprimand in an employee's file will preclude the employee's opportunity to pursue promotion or reassignment.

Mediation

Programs available from a contracted vendor which are designed to address inter-office disputes and to provide citizen-officer complaint mediation. Participation in the programs require the concurrence of all involved parties and for the recommending supervisor to submit a memorandum (and PCR if applicable) to the Professional Standards Commander. See P&P-C-106 *Inter-Office Dispute Mediation* and PAT-N-228 *Community Mediation Referral Program* for further information and procedures.

Member
Any person who is an employee or volunteer of the Douglas County Sheriff's Office, whether noncommissioned or commissioned; within this policy only, 'member' shall also mean any person who possesses a special or limited commission as a Douglas County deputy sheriff.

Non-Investigative Resolution
The Office recognizes that most cases of misconduct are not ethical or moral violations requiring severe punishment but lapses in judgment or deviations from typical processes. It is therefore our policy to conclude member misconduct through the use of a non-investigative resolution whenever possible. Non-investigative resolutions are available for minor acts of misconduct and are addressed through the *Corrective Action Ranges (PP-I-102(IV)*.

This process allows an accused employee to (1) avoid a lengthy and possibly stressful investigation; (2) admit their mistake, receive a sanction and move on, or volunteer exculpatory information that will exonerate them; and (3) ease the burden on themselves and the Office related to the investigative process.

A Non-Investigation Resolution streamlines the investigative process and does not require the issuance of a Notice of Complaint or a Notice of Findings. However, a Garrity Advisement shall be utilized in this process. A Blue Team PCR report is initiated, and the Non-Investigation Resolution is included in the respective PCR as an attachment.

A commander/manager may call for a standard internal investigation for an incident that may have otherwise qualified for a non-investigative resolution. This would be based on the need to have the details of the incident discovered so that any security, procedural or on-going training can be improved to assist in preventing a repeat of a similar incident.

Non-Testimonial Evidence
Evidence not comprised of testimony, including but not limited to blood tests, urine tests, physical or photo lineups, breath tests, hair samples, voice prints, handwriting exams, photos or videos, phone records, financial statements, or other records related to an investigation.

Notice of Complaint
Prior to a formal interview the accused member will be provided a *Notice of Complaint* by the investigator. The member shall receive a copy of the memorandum after signing. The memorandum will contain, but is not limited to, unless it is a confidential investigation, the following information:

- Name of complainant (may be redacted based on the circumstances).
- The date of the alleged incident(s).
- The possible policy violation(s).
- Any related report numbers or summonses.
- A brief summary of the allegation.

Notification of Findings
Following the review and approval of a completed investigation by the accused member's division chief or functional equivalent or the Internal Affairs Commander, the member will be given formal notification of the outcome of the investigation through the issuance of a *Notice of Findings* memorandum to the member by the assigned investigator or as directed by the member's division chief. This should be done as soon after the completion of the investigation as is reasonably possible. The member will receive a copy of the memorandum after signing.

PCR Investigations
Complaints including, but not limited to: Rudeness, disrespect, favoritism, procedural violations specifically related to the member's duty assignment, arrest procedures, traffic stops, supervisory issues such as tardiness, procedural errors, traffic accidents, failure to show up for court, negligent damage or loss of county property, and sick time abuse. Complaints of this nature will normally only be accepted for up to one year after the date of occurrence. <COM 1.4.1a>

Performance History
The member's performance evaluations, training files, commendation files, personnel comment report, supervisor's notes, any internal inspection investigations, use of force, and accident review history.

Preponderance of the Evidence
That, taken as a whole, the available testimony and physical evidence in a case is more persuasive on one side of the question than on the other; that amount of evidence sufficient to make a contested fact more likely true than not.

Pre-Disciplinary Hearing
A meeting between the member and the member's supervisor to discuss issues of an investigation where the discipline may exceed a 1-Year letter of reprimand and / or contain suspension days.

Preliminary Investigation
The initial gathering of memos, reports and other evidence used to establish the validity of the complaint and identify the investigating authority.

Probation
Probation may be imposed by a division chief functional equivalent. Circumstances that justify placing or extending probation of a member may include, but are not limited to:
- The member willfully or intentionally violated policy and procedure.
- The member's performance included gross or wanton negligence.
- The member repeatedly violated policy and procedure.
- The member's performance is unsatisfactory.

Remedial Training <LE 26.1.4a> <COM 3.6.5a>
A form of corrective action intended to correct or improve performance. An immediate supervisor, the Training Unit, Internal Affairs commander, commander or functional

equivalent or their designee, may recommend remedial training. The member's division chief must approve the remedial training. This training will be used to correct a specific deficiency in a member's performance. The member's immediate supervisor will share in the responsibility to help ensure that the remedial training is completed by the mandatory completion date and shall evaluate the member's progress after the training is completed. Circumstances that may be considered in determining if a member should be sent to remedial training include, but are not limited to:

- The member repeatedly violates the same or similar policy and procedure.
- The member's performance is unsatisfactory.
- Failure to qualify.
- Repeated accidents.

Service Inquiry

This is an inquiry by a member of the public into procedures used by the Office in the normal course of day-to-day law enforcement activities. Service inquiries may appear at first to be a complaint. It may be determined that policy and procedures were followed by Office member(s), and the citizen is simply unaware of the techniques or processes which law enforcement uses. While the Office continues to strive to educate the public on law enforcement procedures, many procedures are not advertised or discussed with the public based on a need to maintain officer safety and security.

Supervisor / Coaching Notes

A non-punitive supervisory action intended to modify and improve behavior through educational and/or counseling activities. Also included are other corrective actions reasonably intended to narrowly and specifically address an identified performance-related issue. Supervisor / coaching notes are not punitive discipline. However, as they are performance-related, they may be taken into consideration for transfer, special assignment, or promotional testing processes.

Supervisory Discussion

A discussion and concurrence between the member and his supervisor, intended to correct behavior.

Termination

Termination of employment with the Sheriff's Office. Only the Sheriff or Undersheriff may terminate a member of the Sheriff's Office. The Sheriff is the only appeal authority for termination by the Undersheriff. <LE 26.1.6> Circumstances that justify termination may include, but are not limited to:

- The member has committed a serious policy and procedure violation.
- The member repeatedly violated policy and procedure.
- The member fails to correct unsatisfactory performance.
- At-Will Termination (no appeal authorized).

Employment with the county and the Sheriff's Office is at will.

Work Performance Plan
A written plan of action intended to address and correct a specific performance issue. The purpose, expectations, and process to be taken to achieve the expected outcome will be detailed in the plan, as will the possible consequences for failure to achieve the plan's goals. Both the effected member and the issuing supervisor will acknowledge their acceptance of the plan in writing. The supervisor and the employee will, at a minimum, meet on a weekly basis, and the employee's progress (or lack thereof) will be discussed and documented. Reasonable requests for assistance and suggestions from the employee designed to positively impact their plan's goal will be accommodated by the supervisor. Under normal circumstances, work performance plans are designed to be completed within a 60 to 90-day time period. <LE 26.1.4b>

While on a *Work Performance Plan* the affected member will be placed on *Probation* at the direction of a division chief or functional equivalent. The probationary period shall extend for a minimum of 30 days from the successful completion of the *Work Performance Plan.* This post-probationary period may be extended at the direction of a division chief or functional equivalent.

By Order of the Sheriff