	Matthews Police Department		
	General Order: DISCIPLINE	Section 02: Administrative Requirements	Order #: 02-04
	Review: Annually in October by the Admin Division Commander	Issue Date: 09/13/2022 (supersedes 08/18/2020)	

I. PURPOSE:

To outline the closure of internal investigations, immediate corrective action, emergency relief from duty, suspension hearings, and information to be furnished upon dismissal

II. CROSS-REFS:

G.O. 02-07 "Internal Investigations"
G.O. 09-06 "Awards and Commendations"
Town Personnel Policy "Grievance Procedure"
Form OPS-001 "Notice of Internal Investigation"
Form OPS-002 "Internal Investigation"
Form OPS-004 "Notice of Approved Disciplinary Action"
Form OPS-006 "Internal Closure Recommendation"
CALEA STANDARDS 26.1.4; 26.1.6
Wind v. City of Gastonia

III. DISCUSSION:

The Department has a responsibility to its employees and the community to take administrative/disciplinary action against those employees whose conduct discredits the Department or impairs its effective operation. The purpose of the administrative disciplinary process is the redirection of undesirable or inappropriate behavior to a more effective and productive path or the correction of unacceptable behavior. This may involve encouragement, training, or disciplinary action up to and including termination.

IV. POLICY:

Any employee of the Matthews Police Department may be subject to appropriate disciplinary action if he/she commits an offense under the laws of the United States, the State of North Carolina, local ordinances, or violates any General Order of the Matthews Police Department or provision in the Town of Matthews Personnel Policy.


V. DEFINITIONS:

ADMINISTRATIVE ACTION – Any action that the Department imposes as a full or partial resolution of a sustained violation of Department General Orders or Town of Matthews Personnel Policy

DISCIPLINE – Any formal sanction or resolution to a sustained complaint against an employee, which may consist of any negative sanction, from Reprimand up to and including dismissal

VI. ACTIONS AVAILABLE:

1. When it is necessary to conduct an investigation into an employee's conduct from either an outside complaint or an unsatisfactory performance that may lead to disciplinary action, or a violation of a rule or regulation, or failure to follow instructions, this will be done via electronic submission in Benchmark Analytics.
2. When corrective action is necessary, one or more of the following administrative/disciplinary actions may be taken:
 - a. **Administrative Action** (non-disciplinary)
 - i. Verbal Counseling/ Notation for Performance Evaluation
 - ii. Documented Counseling Session

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iii. Training/Retraining

(1) Any corrective action that is handled or closed as performance must be documented as follows:

- a. Verbal Counseling/ Notations for performance evaluation purposes may be recorded at the squad/unit level in accordance with established evaluation procedures. The Supervisor may complete a supervisor note in Benchmark Analytics to document the allegation and clarify the complaint for the employee.
- b. Documented Counseling Sessions may be in memorandum form, from the supervisor to the employee, outlining the violation and other pertinent information that lead to the unsatisfactory performance. The document will also state that a copy of the counseling session will be made a part of the employee's unit file and the infraction will be noted on their performance evaluation. Copies of Documented Counseling Sessions will be added as attachments to a "Supervisor Note" in Benchmark Analytics.

(2) Division Commanders must approve performance closures of all sustained complaints against subordinates via Benchmark Analytics.

b. **Disciplinary**

- i. Reprimand
- ii. Suspension
- iii. Demotion in rank/grade
- iv. Termination/Dismissal from the Department


(1) Division Commanders may approve Reprimand forms of discipline except in cases of sustained excessive/inappropriate force, sexual harassment/ hostile work environment, or law violations. Division Commanders will notify the Chief in all cases in which a suspension is warranted.

(2) Termination, demotion, and/or suspensions from duty, as well as all recommendations for discipline for excessive or inappropriate force, sexual harassment/ hostile work environment or law violations, must be approved by the Chief of Police after consulting with the Human Resources Director.

3. The Chief of Police may offer and/or impose any sanction or action not listed above if it is believed to be in the best interest of the agency and that the circumstances indicate a resolution different from those generally imposed, subject to all applicable laws, rules, and regulations.

4. Upon a decision being reached that disciplinary action will be imposed/sought, the Office of the Chief, through the Administrative Division, will cause the appropriate paperwork to be completed and served on the accused employee:

- a. Form OPS-004 "Notification of Approved Disciplinary Action," will be completed, as applicable. This form details the allegation(s) and the proposed disciplinary action and gives the officer a period of time in which to prepare a response if necessary.

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b. If suspension, demotion, or termination is recommended, the employee will be provided the written notification from the Chief of Police or Human Resources. The notification will include the following:

- i. Nature of the proposed action;
- ii. The recommended effective date;
- iii. The reason for the action; and
- iv. Date and time for the pre-disciplinary conference.

(1) At the pre-disciplinary conference, the employee may present any response to the proposed disciplinary action to the Chief of Police or Human Resources Director. The Chief of Police or Human Resources Director will consider the employee's response, if any, to the proposed disciplinary action, and will, within three working days following the pre-disciplinary conference, notify the employee in writing of the final decision to take disciplinary action. The notice of the final disciplinary action by the Chief of Police or Human Resources Director will contain a statement of the reason for the action and the employee's appeal rights.

VII. DOCUMENTATION OF DISCIPLINE:

1. The Office of Professional Standards (OPS) will include documentation of disciplinary actions taken in the investigative file.
2. Supervisors of employees who are suspended from duty for disciplinary reasons will ensure that a copy of the "Time Sheet" for the days such suspension is served is forwarded to OPS.

VIII. CONSEQUENCES OF SUSPENSION- SWORN PERSONNEL:


Any sworn employee who has been suspended from duty will be deprived of all police powers and privileges. He/she will not represent himself under any circumstances as a member of the Department, and will not wear the uniform or any part of the uniform and will surrender, prior to or at the beginning of any period of suspension, his/ her badge, Department identification card, and any other requested or required department property.

IX. DOCUMENTATION OF COMPLAINTS:

All complaints will be documented as required in G.O. 02-07 "Internal Investigations," in Benchmark Analytics and forwarded to the Office of Professional Standards for review.

X. DISPOSITION OF INVESTIGATIONS:

1. If an internal investigation results in a finding of other than "sustained," OPS will prepare for the accused employee a memorandum advising them of the closure of the case and its classification.
2. After the closure of any sustained internal investigation where discipline will be imposed by the imposition of approved disciplinary action, and after the Chief of Police or Division Commander determines the final discipline to be imposed, the OPS will cause a Personnel Order to be issued detailing the closure of the case. The Personnel Order will contain the discipline imposed, the content of any entry into an employee's service record, and the employee's right to comment on the disciplinary action. Personnel Orders will be served by command officers as approved by the Chief of Police.

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3. If a sustained investigation will result in a performance closure (non-disciplinary), OPS will ensure that the employee is notified in writing of the closure through a memorandum served by the supervisor.
4. The entire investigative file, as well as a copy of the Personnel Order or other paperwork closing an investigation, will be submitted to OPS for filing.
5. The Sr. Administrative Assistant in the Office of the Chief will ensure that Personnel Orders are placed in personnel files and that disciplinary action is noted on the employee's service record. All formal disciplinary actions will be placed on service records.

XI. APPEALS:


1. In accordance with Town policy, all employees are entitled to appeal a decision on recommended/imposed discipline to the next higher authority in their chain of command. The Town Manager is the final authority in all appeals as outlined in the Grievance Procedure, Section 5.23, in the Town of Matthews Policy Manual.
2. In all cases, an appeal of a disciplinary action does not stay the implementation of that action

XII. INTERDIVISIONAL INTERVENTION/ CORRECTIVE ACTION:

When the improper conduct of an employee of one unit is of such a nature that immediate supervisory corrective action is required of a command officer or supervisor of another unit, such action is to be taken at once. The command officer or supervisor intervening will notify the employee's supervisor of the incident and the action taken. The intervening supervisor/command officer will document the incident in writing if the employee's supervisor requests that this be done, if an investigation is to be initiated, or if it appears to be in the best interests of the Department to do so.

XIII. EMERGENCY RELIEF FROM DUTY:

1. Command officers, sergeants, other supervisors, and those acting in that capacity, are authorized to suspend on an emergency basis any employee of the Department **WITH PAY** when acts alleged or committed by such employees are of such nature that, in the judgment of the suspending officer, the interest and welfare of the public, the Department, and/or the individual may be best served by such action.
 - A. The supervisory or command employee imposing the emergency suspension will initiate a Benchmark Analytics Entry and a preliminary report that same tour of duty briefly and succinctly outlining the circumstances resulting in the revocation or suspension and submit one completed copy to OPS and a second via the chain of command to the Chief of Police immediately after the suspension.
 - B. The original Employee Misconduct Form and a copy of the preliminary report are to be forwarded to the OPS at the same time as the report is forwarded through the chain of command.
2. All investigations of suspended members will be given a tracking number by OPS. Emergency suspensions without pay of sworn employees may only be imposed if the officer has been charged criminally with the commission of a crime.
3. Command officers may recommend the suspension of the police powers of sworn employees under their command if circumstances are brought to their attention that indicates it is not appropriate for an employee to continue in their assigned duties.
 - A. Such recommendations will immediately be made in a preliminary report briefly and succinctly outlining the circumstances resulting in the suspension of police powers in that same tour of duty. One copy submitted to OPS and a second via the chain of command to the Chief of Police. Conditions should be noted that require the


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suspension of duty and recommendation on what is needed to return to duty.

- B. Sworn employees whose police powers have been suspended will immediately surrender their badge, their departmentally issued firearm(s), their Departmental identification cards, and any other equipment requested to be surrendered, as deemed appropriate by their commander.
- C. Suspension of Police powers: the chain of command or OPS will conduct a detailed report or investigation as appropriate to recommend suspension of police powers and determine circumstances or conditions for returning the officer to duty.

XIV. SUSPENSION HEARINGS:

1. Any employee suspended from duty will be ordered to appear for a suspension hearing to determine whether such suspension will be continued or terminated, and, if such suspension from duty is to be continued, whether it will be with or without pay. **The suspension hearing will be held within three business days following the suspension from duty exclusive of weekends and holidays.**
2. The suspension hearing is not a judicial proceeding, nor is it directed to findings of fact or law. The suspension hearing is limited to the presentation of the circumstances surrounding the suspension of the employee in order to determine whether such circumstances warrant continued suspension and whether the continued suspension should be with or without pay. When the acts alleged to have been committed by a suspended employee are of such a serious nature that, in the judgment of the suspension hearing officer, the interests and welfare of the public, the department, and/or the individual are best served by continued suspension, then the suspension hearing officer will recommend to the Chief of Police that the suspension continue. If not, then the hearing officer will recommend to the Chief that the suspension be rescinded and the employee returned to duty, with or without restrictions. If a sworn officer has been criminally charged with the commission of a crime, then the Chief of Police may suspend him/her from duty without pay and without a suspension hearing.
3. Suspension Hearings will be conducted as follows:
 - A. Generally, the suspension hearing officer will be the division captain or manager of the suspended employee. In the event, the division captain, manager, or the Chief of Police is the officer who suspended the employee, the Chief of Police will conduct the suspension hearing. However, the Chief of Police may appoint any appropriate command member to serve as the Suspension Hearing Officer if it is deemed advisable to do so.
 - B. The suspending supervisor or commander, the suspended employee, and the suspended employee's supervisor and division commander will attend this hearing unless excused for cause. The suspended employee will have the right to present testimony on his/her own behalf **as to the issue of suspension**. The suspension hearing officer will not consider matters in extenuation and mitigation. He will be the final authority as to what testimony will be heard. The suspending officer or the suspension hearing officer may, at their discretion, request the assistance of the Town Human Resources Director or the Police Attorney at any hearing.
 - D. Suspension hearings are not public in nature. Members of the general public, the Department, or the news media will not be admitted to such hearings unless called upon to testify in matters relating to the purpose of the hearing. Further, evidence presented at suspension hearings is confidential in nature.

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- E. An official record will be maintained and will contain the exact times of the hearing, as well as any recess periods commenced and terminated.
 - F. Based on statements presented, the suspension hearing officer will recommend to the Chief of Police whether the suspension should be continued and whether such suspension will be with or without pay. The suspension hearing officer will advise the employee as to his/her decisions, and promptly submit a written report of his/her recommendation to the Chief of Police, who will approve or disapprove of the action. The Chief will cause a Personnel Order to be issued to document his/her actions. If the Chief of Police is the hearing officer, he/she will document his/her decisions in the matter by Personnel Order.
 - G. If the Chief of Police determines to modify or disapprove the recommendation for suspension, he/she will do so in writing. The Chief may, at his/her discretion, suspend the police powers of sworn employees and assign them to non-police duties with pay pending the resolution of any allegations against them.
 - H. The results of the suspension hearing and any subsequent action by the Chief of Police will be included in the internal investigation report.
4. The accused employee may waive a suspension hearing.

XV. REVIEW OF INTERNAL INVESTIGATION:

In accordance with *Wind v. City of Gastonia*, upon closure of the internal investigation, the accused employee or his duly authorized agent will be permitted to review the file and allegations made against him/her. This request must be made in writing to the Chief of Police via the Administrative Division Commander.

XVI. AT-WILL EMPLOYMENT

Notwithstanding anything previously mentioned in this policy, in accordance with North Carolina law, the employees for the Town of Matthews are at-will employees. Employment can be terminated at any time, by either party, with or without reason, and with or without notice.