



NEWARK POLICE DIVISION GENERAL ORDER



SUBJECT: SUSPENSION POLICY	GENERAL ORDER NO. 07-06
SUPERSEDES: G.O. 07-06 (Issued 6/3/2009)	DATED: JANUARY 27, 2020
RELATED POLICIES & GENERAL ORDERS: <i>Responsibilities of Command & Supervisory Personnel (G.O. 80-1)</i> <i>Disciplinary Process & Matrix (G.O. 18-26)</i> <i>Issuance & Return of Division Equipment (G.O. 67-6)</i> <i>Separation from the Division (G.O. 12-01)</i>	

I. PURPOSE

The purpose of this General Order is to codify the existing process for the immediate or indefinite suspension of Newark Police Division members and to clarify the expectations and responsibilities of superior officers.

II. POLICY

It is the policy of the Newark Police Division to ensure that the immediate suspension of any Division member is determined objectively and on a case-by-case basis, in accordance with the laws of the State of New Jersey, specifically, N.J.S.A. 40A:14-149.1, N.J.A.C. 4-A2:2.5 and 2.7. Only the Public Safety Director may authorize immediate suspensions.

III. DETERMINATION FOR IMMEDIATE SUSPENSION

It should be clear that the suspension of an officer before the completion of an investigation or the disposition of a criminal matter is serious. An immediate suspension may be apparently necessary, as in the instance of a police officer reporting to work under the apparent influence of drugs or alcohol. In other instances, the immediate suspension may follow a preliminary investigation into a matter.

In either case, one of the below criteria must be met in order to suspend an employee without a hearing:

- A. The officer is found to be unfit for duty.
- B. The officer is a hazard to any person if permitted to remain on the job.
- C. An immediate suspension is necessary to maintain safety, health, order or effective direction of public services. (See N.S.A.C. 4A:2-2.5, *attached Appendix A*).
- D. The officer has been formally charged with a crime of the first, second, or third degree, or a crime of the fourth degree on the job or directly related to the job. (See N.J.A.C. 4A:2-2.7, *attached Appendix B*).



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- E.** A Grand Jury returns an indictment against the officer, or said officer is charged with an offense which is a high misdemeanor or which involves moral turpitude or dishonesty, until the case against him is deposed of at trial, until the complaint is dismissed or until the prosecution is terminated. (See, N.J.S.A. 40:A:14-149.1, attached Appendix C).

IV. PROCEDURE IN AN IMMEDIATE SUSPENSION

- A.** Before the application of an immediate suspension, the Superior Officer who is confronted or informed of a member's conduct that may result in the immediate suspension must determine whether one of the following conditions exists:
 - 1.** The officer is found to be unfit for duty.
 - 2.** The officer is a hazard to any person is permitted to remain on the job.
 - 3.** An immediate suspension is necessary to maintain safety, health, order or effective direction of public services.
 - 4.** The officer has been formally charged with a crime of the first, second or third degree, or a crime of the fourth degree on the job or directly related to the job.(See N.J.A.C. 4A:2-2.7)
- B.** Ensure appropriate health care treatment/services are provided to the officer when confronted with cases involving fitness for duty or other potential hazards.
- C.** Safeguard all Division property issued to the suspended officer.
- D.** Document the officer's conduct on the appropriate report(s): Incident Report, Administrative Report, Unusual Incident Report, etc.
- E.** Ensure the execution of an I.O.P. form.
- F.** Notify their immediate or available Captain, Commanding or Executive Officer of the Command, or the Command Post Captain.
- G.** Notify the Office of Professional Standards.

V. CAPTAIN'S RESPONSIBILITIES

- A.** Upon notification that a member of the Police Division may be subject to suspension, the Captain must:
 - 1.** Personally respond and complete a preliminary investigation to determine if the officer's conduct meets at least one of the conditions for immediate suspension.



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2. Ensure notification was made to the Office of Professional Standards to assist in the preliminary investigation being conducted by the Captain.
- B.** Upon confirmation that the subject officer has met at least one of the suspension criteria, the Captain's Bureau Deputy Chief must be notified, if applicable. The Bureau Deputy Chief must in turn notify the Public Safety Director of the incident. If the Public Safety Director conveys to the Bureau Deputy Chief that an immediate suspension is authorized, then the Captain must:
1. Collect and secure the following Division-issued property from the suspended officer.
 - a. Badge
 - b. Identification Card
 - c. Service weapon
 - d. All issued magazines
 - e. Radio
 - f. Building access card
 - g. Body-worn camera
 2. Ensure all documentation and notifications of the approval of the suspension are recorded on the Suspension Notice, Administration Suspension Summary Report and I.O.P. form.
 3. Advise the individual in writing – (by use of the "Suspension Notice") or verbally, why an immediate suspension is being sought and the charges and general evidence in support of the charges. In the event the individual refuses to accept the notice, a copy must be provided to the officer's collective bargaining representative as soon as possible.
 4. Ensure the completion and forwarding all relative reports (Preliminary Investigation, I.O.P.'s, Suspension Notice, Incident Reports, Administration Suspension Summary Report, etc.) to the Office of Professional Standard's Advocate & Trials Unit who then shall be responsible for the adherence of established protocol with regards to Civil Service Law and hearing requirements.
 5. Ensure the completion and forwarding of the "Administration Suspension Summary Report" to:
 - a. The Office of the Public Safety Director.
 - b. The Human Resources Office which shall be responsible for the issuance of a Personnel Order indicating "Immediate Suspension" and notifications to the Business Office to cease payment to the suspended officer.



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VI. THE OFFICE OF PROFESSIONAL STANDARDS

Upon notification from any source, that a member of the Division may be subject to an immediate suspension, the Office of Professional Standard must:

- A.** Respond and assist the Commanding Officer in the preliminary investigation.
- B.** Ensure the Advocate & Trials Unit adheres to established protocol with regards to Civil Service Law and hearing requirements.
 - 1.** The Office of Professional Standards must be notified in all cases involving the arrest of police personnel.
 - 2.** A Division Captain from the Office of Professional Standards shall be responsible to comply with Section III, "Captain's Procedures", of this Order when police personnel are arrested by another agency.

VII. BUREAU DEPUTY CHIEF'S RESPONSIBILITY

Upon notification that a member of the Division may be subject to suspension, the Bureau Deputy Chief, after conferring with the Captain, must immediately notify the Public Safety Director of the incident. If the Public Safety Director authorizes the suspension, the Bureau Deputy Chief must:

- A.** Authorize the Captain to proceed with the suspension.
- B.** Notify the Chief of Police of the suspension.

VIII. SUSPENDED OFFICER'S RESPONSIBILITIES

- A.** The officer must immediately notify the Division in any instance where the officer is arrested, regardless of the state or jurisdiction wherein the arrest occurs.
- B.** At the time of the suspension, the individual must be provided with a copy of the "Immediate Suspension Notice". The officer must also surrender the following Division-issued equipment.
 - 1.** Badge
 - 2.** Identification Card
 - 3.** Service weapon
 - 4.** All issued magazines
 - 5.** Radio
 - 6.** Building access card
 - 7.** Body-worn camera



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- C. The suspended officer is reminded that, during the suspension period, he or she remains bound by all Division Rules and Regulations and is required to obey all orders. Failure to do so will result in further disciplinary action.
- D. Within five (5) days of the suspension, a Preliminary Notice of Disciplinary Action must be served on the officer. (DPF-31A)
- E. Within five (5) days of receipt of the Preliminary Notice of Disciplinary Action (DPF-31A), the officer may request a hearing on the charges brought forth.
- F. The individual will not be allowed to wear the Division uniform while suspended from duty.

IX. NOTIFICATION PROCESS FOR SUSPENDED/SEPARATED PERSONNEL

A. Suspensions of Ten (10) or More Consecutive Days

1. In all instances where a member is suspended for ten (10) or more consecutive days, there shall be a statement that accompanies the Personnel Order in Power DMS indicating:

“(Suspended member name/Title) is suspended for the period of _____ through _____ and is forbidden from entering employee-only areas of Department of Public Safety facilities during this time.”
2. Suspension personnel orders must be printed and posted by all commanders on the bulletin boards in the employee-only section of Department of Public Safety facilities for the duration of the suspension period, then removed and discarded.

B. Separations

1. When members separate for any reason, or are suspended for any reason for ten (10) or more consecutive days, a Personnel Order notification shall be prepared by Human Resources and signed by the Public Safety Director indicating the member's Name, Rank/Title, Commands, Date of Separation and/or Dates of Suspension and Photo.
2. The personnel order will include the statement: “All commands of the Police Division affected by this order shall make the necessary changes of Division records accordingly.”
3. The personnel order shall be entered into Power DMS by the Consent Decree & Planning Division, then shall be distributed to all Police Division commands via Power DMS.
4. In all instances where a member separates, there shall be a statement that accompanies the Personnel Order in Power DMS indicating:



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“(Separated member name) is no longer a (separated member title) and is forbidden from entering employee-only areas of Department of Public Safety facilities”.

5. Separation personnel orders must be printed and posted by all commanders on the bulletin boards in the employee-only section of Department of Public Safety facilities for three months, then removed and discarded.

X. EFFECT OF THIS ORDER

All Division Orders, Memoranda, and sections of Rules of Regulations that are inconsistent with this General Order are hereby rescinded and repealed.

BY ORDER OF

ANTHONY F. AMBROSE
PUBLIC SAFETY DIRECTOR

AFA/BO:rme

Attachments:

Appendix A – 4A:2-2.5 Opportunity for Hearing before the Appointing Authority

Appendix B – 4A:2-2.7 Actions Involving Criminal Matters

Appendix C – N.J.S.A. 40A:14-149.1



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APPENDIX A

4A:2-2.5 OPPORTUNITY FOR HEARING BEFORE THE APPOINTING AUTHORITY

(a) An employee must be served with a Preliminary Notice of Disciplinary Action setting forth the charges and statement of facts supporting the charges (specifications), and afforded the opportunity for a hearing prior to imposition of major discipline, except:

1. An employee may be suspended immediately and prior to a hearing where it is determined that the employee is unfit for duty or is a hazard to any person if permitted to remain on the job, or that an immediate suspension is necessary to maintain safety, health, order or effective direction of public services. However, a Preliminary Notice of Disciplinary Action with opportunity for a hearing must be served in person or by certified mail within five days following the immediate suspension.
2. An employee may be suspended immediately when the employee is formally charged with a crime of the first, second or third degree, or a crime of the fourth degree on the job or directly related to the job. See N.J.A.C. 4A:2-2.7.

(b) Where suspension is immediate under (a)1 and (a)2 above, and is without pay, the employee must first be apprised either orally or in writing, of why an immediate suspension is sought, the charges and general evidence in support of the charges and provided with sufficient opportunity to review the charges and the evidence in order to respond to the charges before a representative of the appointing authority. The response may be oral or in writing, at the discretion of the appointing authority.

(c) The employee may request a departmental hearing within five days of receipt of the Preliminary Notice. If no request is made within this time or such additional time as agreed to by the appointing authority or as provided in a negotiated agreement, the departmental hearing may be considered to have been waived and the appointing authority may issue a Final Notice of Disciplinary Action.

(d) A departmental hearing, if requested, shall be held within 30 days of the Preliminary Notice of Disciplinary Action unless waived by the employee or a later date as agreed to by the parties.

(e) Appeals concerning violations of this section may be presented to the Commissioner through a petition for interim relief.



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APPENDIX B

4A:2-2.7 ACTIONS INVOLVING CRIMINAL MATTERS

(a) When an appointing authority suspends an employee based on a pending criminal complaint or indictment, the employee must be served with a Preliminary Notice of Disciplinary Action. The notice should include a statement that N.J.S.A. 2C:51-2 may apply to the employee, and that the employee may choose to consult with an attorney concerning the provisions of that statute.

1. The employee may request a departmental hearing within five days of receipt of the Notice. If no request is made within this time, or such additional time as agreed to by the appointing authority or as provided in a negotiated agreement, the appointing authority may then issue a Final Notice of Disciplinary Action under (a)3 below. A hearing shall be limited to the issue of whether the public interest would best be served by suspending the employee until disposition of the criminal complaint or indictment. The standard for determining that issue shall be whether the employee is unfit for duty or is a hazard to any person if permitted to remain on the job, or that an immediate suspension is necessary to maintain safety, health, order or effective direction of public services.
2. The appointing authority may impose an indefinite suspension to extend beyond six months where an employee is subject to criminal charges as set forth in N.J.A.C. 4A:2-2.5(a)2, but not beyond the disposition of the criminal complaint or indictment.
 - i. Where an employee who has been indefinitely suspended enters Pre-Trial Intervention (PTI) or has received a conditional discharge, the criminal complaint or indictment shall not be deemed disposed of until completion of PTI or until dismissal of the charges due to the employee's satisfaction of the conditions in a conditional discharge, as the case may be.
 - ii. An appointing authority may continue an indefinite suspension until completion of PTI or until satisfaction of the conditions imposed in a conditional discharge. If an appointing authority chooses not to continue an indefinite suspension during the PTI period or during the period of conditional discharge, it may restore the employee to employment or initiate disciplinary action against the employee.
3. Where the appointing authority determines that an indefinite suspension should be imposed, a Final Notice of Disciplinary Action shall be issued stating that the employee has been indefinitely suspended pending disposition of the criminal complaint or indictment.

(b) When a court has entered an order of forfeiture pursuant to N.J.S.A. 2C:51-2, the appointing authority shall notify the employee in writing of the forfeiture and record the forfeiture in the employee's personnel records. The appointing authority shall also forward a copy of this notification to the Department of Personnel.

1. If the criminal action does not result in an order of forfeiture issued by the court pursuant to N.J.S.A. 2C:51-2, the appointing authority shall issue a second Preliminary Notice of Disciplinary Action specifying any remaining charges against the employee upon final disposition of the criminal complaint or indictment. The appointing authority shall then proceed under N.J.A.C. 4A:2-2.5 and 2.6.

(c) Where an employee has pled guilty or been convicted of a crime or offense which is cause for forfeiture of employment under N.J.S.A. 2C:51-2 but the court has not entered an order of forfeiture, the appointing authority may seek forfeiture by applying to the court for an order of forfeiture. The appointing authority shall not hold a departmental hearing regarding the issue of the applicability of N.J.S.A. 2C:51-2. If the court declines to enter an order of forfeiture in response to the appointing authority's application, the appointing authority may hold a departmental hearing regarding other disciplinary charges, if any, as provided in (b)1 above.



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APPENDIX C

NJ.S.A. 40A:14-149.1

Notwithstanding any other law to the contrary, whenever any municipal police officer is charged under the law of this State, another state, or the United States, with an offense, said police officer may be suspended from performing his duties, with pay, until the case against said officer is disposed of at trial, until the complaint is dismissed, or until the prosecution is terminated; provided, however, that if a grand jury returns an indictment against said officer, or said officer is charged with an offense which is a high misdemeanor or which involves moral against said officer, or said officer may be suspended from his duties, without pay, until the case against him disposed of at trial, until the complaint is dismissed or until the prosecution is terminated.