



TIVERTON POLICE DEPARTMENT

GENERAL ORDERS

Subject: Employee Discipline		General Order Number: 210.70
Section: 200- Administration		Subsection: 10- Administrative
Amends/Supersedes: 1-4, 210.70 (09/23/2014), 210.70 (05/18/2020)		
Effective Date: 09/23/2014	Revised Date: 03/01/2021	Review Date: As Needed
Per Order Of: Patrick W. Jones, Chief of Police		
RIPAC: 2.8, 5.3, 5.4, 5.10		
Distribution: All Department Members		

NOTE: This written directive is for the internal governance of the Tiverton Police Department, and is not intended and should not be interpreted to establish a higher standard of care in any civil or criminal action than would otherwise be applicable under existing law.

I. POLICY

The Tiverton Police Department recognizes that discipline can be either constructive or punitive in nature. We believe that our employees are our most valuable resource and to the extent possible, we shall utilize counseling, evaluation, training and other constructive measures to develop and improve employee performance.

At the same time, the Tiverton Police Department declares zero tolerance for deliberately unethical or illegal conduct. The Tiverton Police Department recognizes that other repetitive or uncorrectable conditions require decisive action to protect the Town of Tiverton, the Tiverton Police Department, and its employees from harm to their reputations and allegations of negligent retention or failure to discipline.

It is the Tiverton Police Department's policy to utilize the disciplinary process fairly and impartially with adequate appeal procedures to ensure that the rights of employees are protected.

Discipline in the department shall involve recognition and reward, training, counseling, and as a last resort, punitive action.

II. PURPOSE

The purpose of this order is to establish procedures concerning formal and informal disciplinary practices within the Tiverton Police Department that are not inconsistent with any applicable state or federal law, requirements of collective bargaining agreements and town personnel rules.

III. DEFINITIONS

Administrative Leave: The Chief of Police temporarily relieves an employee from performing his or her duties without loss of pay or benefits. (Also known as Relief from Duty.)

Counseling: Information relayed to an employee by a supervisor, in which the information relayed points out strengths, weaknesses, or training needs, or offers the employee the opportunity to improve performance. Counseling is not disciplinary by itself, but may progressively lead to discipline.

Days: The term "days," as used herein, shall mean scheduled workdays.

Discipline: A method of training or developing an employee by proper supervision, counseling, instruction, recognition or sanctions. Discipline may be positive (awards) or punitive (sanctions or dismissal).

Discourtesy: Rudeness or insolence to any department member or member of the public.

Employee: Any person employed by the Tiverton Police Department, whether sworn or non-sworn, part-time or full-time.

Incompetence: Incapability of performing assigned or general duties, including but not limited to, lack of courage, dishonesty, lack of emotional stability, lack of sound judgment, lack of industry or initiative, lack of alertness, indecisiveness, deficient powers of observation, inability to comprehend and follow instructions, inability to prepare proper reports, lack of intelligence or inability to communicate effectively.

Insubordination: The willful disobedience of any order lawfully given or issued by a superior or any disrespectful, mutinous, insolent or abusive language directed toward any superior. Ridiculing a superior or his/her orders, whether in or out of the superior's presence, is considered insubordination.

Internal Affairs: The Deputy Chief of Police is responsible for the department's internal affairs function. The Deputy Chief of Police is designated with the primary responsibility for coordinating all administrative and criminal investigations of Tiverton Police Department employees and citizen complaints of misconduct. The Deputy Chief of Police reports directly to the Chief of Police on all internal affairs matters.

Misconduct: Any conduct by a Tiverton Police Department employee that violates Tiverton Police Department policy or the law.

Neglect of Duty: Failure to give suitable attention to the performance of duty including but not limited to failure to take proper action on a call for service or report of a crime, action of disorder, or other item requiring police attention. Being absent without leave, failure to report for duty at the proper time or place, failure to conform to written directives, or conducting private business or engaging in personal pleasure pursuits while on duty.

Supervisor: Includes those holding the rank of Sergeant or above, or anyone acting in those capacities, or any other individual authorized by the Chief of Police.

IV. PROCEDURES

A. Positive discipline

1. Positive discipline is oriented towards seeking voluntary compliance with established policies, procedures and orders. Methods of positive discipline include:
 - a. Recognition of excellent job performance through rewards or awards.
 - (1) All positive feedback concerning an employee's performance shall be documented.
 - (2) When positive feedback concerning an employee's performance is received from people outside the department, the person who receives the information shall

- make a record of the comments which will be passed to the employee and the employee's supervisor.
- (3) Normally, when the Chief of Police receives positive comments about an employee, s/he shall write an acknowledgement thanking the citizen. Copies of the citizen's statement and the Chief's response shall be sent to the employee involved and his or her supervisor.
 - (4) Truly exceptional acts shall be clearly and promptly identified to the Chief of Police by the employee's immediate supervisor. Such acts may be the basis for departmental awards or for special recognition by citizen-community groups or media coverage. (See General order 530.50 *Commendations and Awards*)
- b. Discussion and counseling- Discussions between a supervisor and subordinate intended to acquaint the subordinate with any errors made and to explain proper procedures to be followed in similar situations in the future.
- 2. Training
 - a. Classroom or practical training sessions or individual coaching intended to improve job performance.
- B. Consistency in discipline
- 1. The department believes that discipline must be applied consistently and uniformly. The purpose of supervisory oversight is as much to identify and recognize exceptional performance as to detect and confront inappropriate action.
 - 2. Rules and regulations referring to complaints against police personnel describe the internal affairs process, whereas this order describes methods of employee recognition and penalties for various infractions.
 - a. See General Order 230.10 Employee Misconduct for further information on the internal affairs process and complaints against police personnel.
 - 3. The department does not provide employees with lists of specifically prohibited behavior. Common sense, a sense of ethics and professional responsibility dictate much of the conduct of members of the police profession. One list of examples of prohibited behavior appears in *Rules and Regulations* (General Order 100.10), however, no such list can be all-inclusive.
 - a. Employees are expected to have a reasonable perception of what constitutes proper behavior based on their basic training and the observance of the behavior of exemplary employees.
- C. Administrative Leave
- 1. Relief from duty (administrative leave) shall be imposed when the Chief of Police questions an employee's physical or psychological fitness for duty. An internal affairs investigation may follow. There shall be no loss of pay, benefits or seniority during a relief from duty period.
 - 2. A supervisor may relieve an employee from duty, for a temporary period of time but shall immediately report such action, through the chain of

- command, to the Chief of Police or his/her designee, accompanied by a written report setting forth details and circumstances.
3. If the necessity to relieve from duty is not immediate, the behavior or actions of the employee shall be deemed a matter of employee misconduct. In an employee misconduct investigation, only the Chief of Police or, in his/her absence, the Deputy Chief of Police may relieve an employee from duty.
 4. An officer who is deliberately insubordinate or who refuses to obey a direct order issued in conformity with the department's rules, regulations and orders may be relieved from duty forthwith by a supervisor, who shall recommend disciplinary or corrective action, through the chain of command, to the Chief of Police.
 5. Where an employee's actions cause death or serious bodily injury, the employee will be placed on a non-punitive administrative leave pending completion of an administrative review.
- D. Punitive Discipline
- The standard for punitive discipline shall be just cause.
1. The following punitive disciplinary actions are available:
 - a. Oral reprimands, counseling and training
 - b. Written reprimand
 - c. Suspension without pay
 - d. Demotion
 - e. Dismissal from the Department
- E. Oral reprimand: counseling and training
1. Oral reprimands, while informal, involve documentation with knowledge by the employee that such a supervisory notation is being made. The following steps shall be observed:
 - a. At the time of an oral reprimand, the employee receiving it shall be counseled as to correct behavior, and further advised that the supervisor will be making a notation of the time, date and nature of the violation. Oral reprimands shall be taken into account during personnel evaluations or to establish that prior informal reprimands have not been effective.
 2. If an oral reprimand/counseling involves a recommendation for remedial training, it shall be documented in writing and forwarded, through the chain of command, to the Uniform Division Commander (Captain). Such training shall not be considered punitive in nature.
 - a. Remedial training may include attendance at basic academy classes, in-service or other training specially created to accomplish the department's goals to correct, modify or improve behavior.
 - b. Remedial training may be offered until the employee can demonstrate proficiency in the corrected behavior. All such training shall be documented.
 - c. All remedial training shall be coordinated by the Planning and Training Sergeant.
 3. If the employee has behaved appropriately for a period of one year (365 days) following counseling, the informal reprimand or counseling shall be deemed to have been successful.

4. Supervisors are expected to counsel or coach employees regularly without informal reprimands. Most counseling is expected to be positive and supportive.
 - a. Supervisors shall counsel employees concerning job-related matters within their capabilities and as necessary.
 - b. Many things can affect the job and an employee's performance. Accordingly, job-related counseling may involve individual, personal subjects.
 - c. Counseling may include identification of unacceptable behaviors or actions, specifically what was done wrong and what is the desired or acceptable performance.
 - d. Counseling can attempt to determine the reason for the particular behavior, determine and recommend how to correct or improve performance or how to solve the problem.
 - e. A variety of counseling resources are available within the community including the Employee Assistance Program, psychological, family, marital, and financial counseling. Employees in need of counseling, or desiring information about available resources, are encouraged to contact their immediate supervisor, Captain, Deputy Chief of Police or the Chief of Police. No stigma is attached to seeking professional counseling to solve problems. Supervisors who are advised by an employee who is in need of counseling will only discuss that matter with the Captain, Deputy Chief of Police and the Chief of Police. Only the Chief of Police may authorize disclosure of counseling information on a "need to know basis".
 - f. For further information on the Employee Assistance Program please refer to General Order 520.20 Employee Assistance Program.

F. Formal Written Reprimand

1. A formal written reprimand is punitive in nature and cautions an employee about poor behavior, sets forth the corrected modified behavior mandated by the department and specifies the penalty in case of recurrent poor behavior.
2. Formal written reprimands shall be issued only in compliance with terms of State law, the most current collective bargaining agreement or town personnel rules where applicable. The appeal rights of the employee shall be subject to any applicable terms and conditions of State law, the most current collective bargaining agreement and Town personnel rules.
3. Formal written reprimands will be documented and placed the employee's personnel file.

G. Suspension without pay

1. If the Chief of Police determines that the situation warrants, he/she may suspend an employee without pay. Such suspensions shall only be issued in conformity with any applicable provisions of state law, the most current collective bargaining agreement, the town personnel rules, and the appeal rights of the employee. Suspensions without pay shall be documented and a copy shall be placed in the employee's personnel file. Only the Chief of

Police or, in the absence of the Chief of Police, the Deputy Chief of Police, may suspend an employee without pay.

2. "Summary punishment" shall consist of a suspension without pay for such time and under such conditions as allowed under existing contractual arrangements or the Rhode Island Law Enforcement Officers' Bill of Rights.
3. Any employee suspended for a period of five (5) days or longer may be required to return all department-owned property to the Chief of Police. In the case of a suspension for any length of time, the employee may be required to return to the Chief of Police his/her badge, identification card, and issued firearm.
4. During a suspension, the employee shall not perform any official duties. This will include any paid details.
5. Suspension of the Chief of Police shall be by the Town Administrator in writing and only for just cause, including specification of the reasons for suspension and only in conformity with state law, the town personnel rules and the town's contract with the Chief of Police.

H. Demotion

1. If the situation warrants, the Chief of Police, with concurrence of the Town Administrator may demote an employee when and where allowable under state law, the most current collective bargaining agreement and/or any applicable town personnel rules. Situations warranting a demotion in rank may include, but are not limited to, an employee's lack of capacity, ability or willingness to perform his/her assigned tasks in a position, insubordinate behavior or misconduct.
2. Upon demotion, the employee's pay shall be reduced to the appropriate grade and the employee shall serve a six (6) month probationary period at the new rank or grade. The employee shall remove all insignia of the previous rank from his or her uniforms.

I. Dismissal

1. Dismissals are made in cases of extreme misconduct, misfeasance, malfeasance or nonfeasance of duty, repeated violation of written directives, incompetence, or conduct that would cast doubt upon the reputation of the department or cause a lack of public confidence in the ability of the employee to perform effectively.
2. Dismissal of an employee shall only take place in accordance with any and all applicable provisions of state law, the most current collective bargaining agreement, town personnel rules, and with concurrence of the Town Administrator.
3. The final dismissal notification to an employee shall include: a written statement citing the reason for dismissal; the effective date of dismissal; a notice of the status of the employee's fringe and retirement benefits, where applicable or how these can be determined; and a statement as to the contents of the employee record relating to the dismissal.
4. Dismissal of the Chief of Police shall be by the Town Administrator, who shall notify the Chief in writing the cause for dismissal. Dismissal of the Chief shall only occur for just cause and in accordance with any applicable

provisions of state law, the town personnel rules and the town's contract with the Chief of Police.

5. Any employee who is convicted of or pleads nolo contendere to a felony criminal charge shall be dismissed from the department.
6. If an employee is acquitted of criminal charges, the employee may still be disciplined, at the discretion of the Chief of Police, if there has been a violation of Tiverton Police Department Rules and Regulations and/or General Orders.

J. Law Enforcement Officers' Bill of Rights

1. Rhode Island General Law 42-28.6, the Law Enforcement Officers' Bill of Rights, applies to any person employed as a law enforcement officer in the State of Rhode Island. When a law enforcement officer is subjected to departmental discipline, he or she can appeal to a hearing committee of three (3) officers at a rank other than Chief from any city or town who are uninvolved in the incident. The accused officer selects one member of the committee, the Police Chief selects the second, and the third or neutral member is chosen from a rotating list, provided by each and serves as Chairperson. If a neutral third party cannot be selected by the Chief and the Officers' representatives, then a Superior Court Justice selects the neutral party from the list.
2. If departmental disciplinary action results in a recommendation of transfer, demotion, dismissal, loss of pay, reassignment, or other action which would be considered punitive the officer shall first be given notice of entitlement to a hearing, including the time, date, place and issues involved.
 - a. The officer may then be relieved of duty but shall continue to receive all pay and benefits.
 - b. If there are multiple charges against an officer, a separate hearing committee is not required for each charge.
 - c. The transfer of an officer from detectives to patrol is not punitive in nature.
3. An officer can be suspended for up to fifteen (15) days or as otherwise provided in the collective bargaining agreement while a non-criminal rule infraction is being investigated.
4. Bill of Rights action is suspended during adjudication of criminal charges, and the officer can be suspended with pay for up to thirty (30) days for investigation of an alleged misdemeanor. This suspension can continue for up to one hundred and eighty (180) days if the officer is charged with the crime. After one hundred and eighty (180) days the suspension becomes without pay, except that the officer's health and life insurance benefits must continue, and if the delay is not the officer's fault, the court can lift the suspension.
 - a. An officer can also be suspended without pay if convicted of a misdemeanor or under indictment for a felony, but cannot be deprived of medical or insurance benefits.
5. An officer must notify the Chief within five (5) days in order to request a Bill of Rights hearing. Each side then has five (5) days to select their committee member, and these two members have another five (5) days to

- agree on the neutral member. The hearing must commence within thirty (30) days of appointment of the panel, and the decision must be rendered within ninety (90) days of appointment of the panel.
6. When and if provided for in the collective bargaining agreement, the Chief may impose summary punishment consisting of such suspension without pay and under such conditions as provided for within the agreement.
 7. No officer can be retaliated against for exercising any privileges under the Bill of Rights, and the Bill of Rights is the sole and exclusive procedure for administering officer discipline.
- K. Retention of Records
1. Records relating to the discipline of employees shall be retained for a period of at least ten (10) years, except when a shorter period of time is established by the terms of state law, the most current collective bargaining agreement or the town personnel rules. Records shall only be purged with permission of the Chief of Police.
- L. Reporting Arrests
1. Any employee arrested for, charged with, or convicted of any crime in this or any other state, territory or country (including felonies, misdemeanors, and petty misdemeanors), or required to appear as a defendant in any criminal proceedings, civil proceedings, or traffic offenses, shall so inform the Chief of Police forthwith in writing.
 - a. Failure to notify the department of the foregoing shall be cause for disciplinary action.

IV. INFRACTIONS AND RECOMMENDATIONS FOR DISCIPLINARY ACTION

- A. Except for gross breaches of discipline, it is recommended that supervisors begin employee discipline with the least punitive measures. If these are not effective, then increasingly more severe measures may be required. While this process may take some time, it is important that each employee be dealt with justly, and in a manner which clearly indicates that positive, constructive measures to change behavior or performance preceded the imposition of more negative sanctions.
- B. Supervisors shall document all infractions committed by an employee and complaints against an employee which he/she believes warrant punitive disciplinary action.
- C. Reports of infractions by an employee or complaints against an employee shall be forwarded, through the chain of command, to the Captain.
- D. The Captain shall review the report and determine if further investigation is warranted.
- E. If it is determined that further investigation is warranted, the Captain shall refer the report to the Deputy Chief of Police, who is responsible for the department's internal affairs function. The Deputy Chief of Police is designated with the primary responsibility for coordinating all administrative and criminal investigations of Tiverton Police Department Employees and citizen complaints of misconduct. The Deputy Chief of Police reports directly to the Chief of Police on all internal affairs matters (See General Order 230.10 Employee Misconduct).
- F. Upon receipt of a report of infraction or a complaint of misconduct, the report will be reviewed by the Deputy Chief of Police and classified in its proper category for assignment.

- G. All internal investigations shall be conducted by the Deputy Chief of Police or a supervisor who did not authorize, witness, or participate in the incident.
- H. Upon completion of the internal affairs investigation report, the Deputy Chief of Police shall forward the report and all supporting documents to the Chief of Police for review. The Chief of Police may accept the report as completed or return the report for further investigation.
- I. The following information is published only as a guideline for supervisors and administrators to follow when recommending discipline to the Chief of Police. The purpose of this guideline is to promote a degree of uniformity in the disciplinary process. However, it is understood that no two cases are exactly alike, and that there may be mitigating or exacerbating circumstances that may cause a supervisor to recommend, or the department to impose, a greater or lesser range of discipline in individual cases.
- J. Unacceptable conduct, for purposes of this guideline only, is divided into the following three (3) categories of offenses according to severity of the offense.
 - 1. Category 1 Offenses- Serious allegations, including alleged criminal conduct that has the potential to damage the reputation of the department or its personnel.
Examples:
 - a. Unexcused failure to report to a duty assignment or absence in excess of three (3) days without notice to a superior,
 - b. Use of alcohol or unlawful possession or use of a controlled substance while on-duty,
 - c. Reporting to work with the odor of alcohol on the breath, or while under the influence, or when ability is impaired to any degree by alcohol or the unlawful use of controlled substances,
 - d. Insubordination or a flagrant breach of discipline,
 - e. Willful acts of obscene, profane or threatening language directed at a supervisor or willfully disruptive behavior involving insubordination,
 - f. Falsification of any reports such as, but not limited to, vouchers, official reports and time records, leave records or knowingly making any false official statement,
 - g. Willfully or negligently damaging or destroying town property,
 - h. Tampering with evidence or records or unauthorized alteration of same, or misappropriation of lost property or evidence,
 - i. Theft or unauthorized removal of departmental records or town or employee property,
 - j. Violation of the gambling laws,
 - k. Acts of unlawful physical violence or fighting,
 - l. Violating safety rules where there is a threat to life,
 - m. Participating in any kind of illegal work slowdown or sit down or any other concerted interference with department or municipal operations,
 - n. Unauthorized possession or use of firearms, dangerous weapons or explosives,
 - o. Threatening or coercing other employees or supervisors,
 - p. Criminal convictions for acts of conduct occurring on or off the job which are plainly related to job performance, or are of such nature that to continue the employee in the assigned position could constitute negligence in regard to the agency's duties to the public or undermine public confidence in the department,

- q. Failure to submit to physical or mental examination or drug or alcohol testing as required. The Chief of Police is authorized to require mental or physical examinations of an employee by a designated psychiatrist, psychologist or physician when in the Chief's opinion, a fitness for duty evaluation is in the best interest of the employee or the department,
 - r. Using public office for private gain,
 - s. Engaging in criminal conduct on or off the job,
 - t. Engaging in dishonest or immoral conduct that undermines the effectiveness of the agency's activities or employee performance whether on or off the job,
 - u. Knowingly disobeying a lawful command of a supervisor,
 - v. Knowingly disclosing confidential information to any person except those who may be entitled to such information,
 - w. Taking any action which will impair the efficiency or reputation of the department, its members or employees,
 - x. Acceptance of any bribe, gift, token, money or other things of value intended as an inducement to perform or refrain from performing any official act or any action of extortion or other means of obtaining money or anything of value through his/her position,
 - y. Manifesting cowardice, feigning illness or otherwise attempting to shirk official duty,
 - z. Facilitating any illegal or unethical agreement between a person or persons accused of crime and the person or persons who have suffered from criminal acts with the purpose of allowing the accused to escape punishment,
 - aa. Failure to answer questions during an internal investigation narrowly and specifically directed and related to official duties or job fitness after having been issued the Garrity warning,
 - ab. The use of unnecessary or unreasonable force during an arrest or custody procedure,
 - ac. Unethical deviation from established procedures in the disposition of summons or arrest cases, such as "ticket-fixing". This shall not apply to any situation where the Chief or a prosecuting officer makes a decision not to prosecute a case or to reduce it to a lesser charge based on legitimate considerations such as lack of sufficient proof, lack of prosecutorial merit, unavailability of a witness, etc. In cases where this is done, a written record shall be made of the decisions and the reasons therefore.
- 2. Investigations of Category 1 Offenses shall be conducted by the Deputy Chief of Police or an outside law enforcement agency (See General Order 230.10 Employee Misconduct).
 - 3. Category 1 Offenses include acts of such severity as to merit a recommendation of suspension of five (5) days or more, demotion or dismissal at a single occurrence.
 - 4. Category 2 Offenses- Less serious offenses that warrant an investigation, but do not rise to the level of a Category 1 Offense.

Examples:

- a. Deliberate or repeated failure to follow the instructions of supervisors, deliberate failure to perform assigned work, or deliberate failure to otherwise comply with policy,
 - b. Violating safety rules not involving a threat to life,
 - c. Unauthorized time away from work assignments without permission,
 - d. Failure to report to work or scheduled training without proper notice to the appropriate supervisor or without being excused
 - e. Unauthorized use or misuse of department property,
 - f. Refusal to work reasonable overtime,
 - g. Sleeping on-duty.
5. Investigations of Category 2 Offenses shall be conducted by the Deputy Chief of Police (See General Order 230.10 Employee Misconduct).
 6. For a first Category 2 offense, an appropriate remedy would be to recommend suspension of up to three (3) days. For subsequent infractions within twelve (12) months, an appropriate remedy would be to recommend suspension of up to ten (10) days, demotion or dismissal.
 7. Category 3 Offense- Less serious offenses that warrant an investigation but do not rise to the level of a Category 2 Offense.

Examples:

- a. Non-critical absences, tardiness
 - b. Abuse of duty time (too much time away from established duties; too much time for personal business)
 - c. Inappropriate or abusive language
 - d. Inadequate or unsatisfactory job performance
 - e. Disruptive but not insubordinate behavior
 - f. Non-willful failure to observe a written directive
 - g. Minor complaints by a citizen desiring to make an informal complaint against an employee, generally involving an employee's conduct and/or behavior.
8. Category 3 Offenses usually result, for a first offense, in informal or formal measures such as counseling, an oral or written reprimand, or a suspension of up to two (2) days. In the case of a second Category 2 Offense in a twelve (12) month period, an appropriate remedy would be to recommend a suspension of up to three (3) days. In cases of the occurrence of three (3) or more instances in a twelve (12) month period, an appropriate remedy would be to recommend a more lengthy suspension or demotion.

I. Harassment, Discrimination and Unprofessional Conduct

1. It is the policy of Tiverton Police Department that no employees shall engage in any acts that threaten, intimidate, harass, demean, or torment fellow employees. This agency considers unprofessional conduct, harassment, discrimination, bullying, and retaliation of others to be serious employee misconduct. Employees found to have engaged in such misconduct shall be disciplined with either a Category 1 or 2 Offense,

depending upon the specific facts and circumstances surrounding the incident.

- a. See General Order 530.10 Harassment, Discrimination and Unprofessional Conduct.