



MILWAUKEE POLICE DEPARTMENT

STANDARD OPERATING PROCEDURE

870 – SUSPENSIONS / OFFICIAL DISCIPLINE

GENERAL ORDER: 2014-106
ISSUED: July 30, 2014

EFFECTIVE: July 30, 2014

REVIEWED/APPROVED BY:
Captain Regina Howard
DATE: July 18, 2014

ACTION: Amends General Order 2013-17 (September 6, 2013)

WILEAG STANDARD(S): 4.2.1, 4.2.2, 4.2.3, 4.2.4

870.00 PURPOSE

The purpose of this standard operating procedure is to provide procedures and guidelines pertaining to suspensions and official discipline regarding department members.

870.05 POLICY

It is the policy of the Milwaukee Police Department that any suspension or discipline administered to an employee shall be based on fairness and complies with all standard operating procedures, the Code of Conduct and Wisconsin state statutes.

870.10 FORMAL DISCIPLINE (WILEAG 4.2.1)

A. CRITERIA

1. Formal discipline may be used to correct employee behavior that has not been corrected by counseling or was a more serious violation of a standard operating procedure or Code of Conduct.

B. TYPES OF DISCIPLINE

1. District level written reprimand.
2. Official reprimand.
3. Suspension without pay.
4. Demotion.
5. Termination.

C. RECOGNITION OF EMPLOYMENT RIGHTS AND PROCEDURAL SAFEGUARDS

1. The department recognizes employee rights as afforded by the federal and state constitution, Wis. Stat. § 164, state law, case law and contractual language.
2. All supervisors shall adhere to all applicable employee rights when conducting internal investigations. The chief of police shall also abide by all applicable

employee rights while imposing discipline.
(WILEAG 4.2.1.2, 4.2.1.3)

870.15 SUSPENSION PROCEDURES (WILEAG 4.2.1, 4.2.2)

A. SUSPENSION AUTHORITY

1. A captain of police or higher rank may suspend a department member from duty for any violation of department standard operating procedures and/or Code of Conduct. A lieutenant assigned to the Internal Affairs Division shall have the same authority for purposes of suspension. Only the Chief of Police may suspend a department member holding the rank of captain or above.
2. A suspended department member shall not be restored to duty while the investigation or hearing of the charges is pending, except as directed by the Chief of Police or designee.

B. NOTIFICATION AND TEMPORARY SUSPENSION OF MEMBER REPORT (PD-41E)

1. The supervisory officer who suspended the member shall notify the Internal Affairs Division (IAD) as soon as practicable. The supervisory officer shall also submit a *Temporary Suspension of Member Report* (form PD-41E) to IAD.
2. Whenever a supervisory officer suspends any department member assigned to a different work location, the supervisory officer shall promptly notify the commanding officer of the suspended member as well as the assistant chief or inspector of police.

C. EQUIPMENT

1. Any department member under suspension shall immediately surrender the following items of department-issued equipment, if applicable, to the suspending supervisory officer or designee. The surrendered equipment shall be retained in a secure place at the member's assigned work location and returned to the member by their commanding officer or designee upon returning to duty. The equipment shall not be inventoried. In extraordinary cases, the equipment may be stored at another work location as determined by the Chief of Police or designee.
 - a. Handgun;
 - b. Regulation/second metal badge;
 - c. Cap shield;
 - d. Identification card;
 - e. Call box key (if applicable);
 - f. Oleoresin capsicum;

- g. Expandable and long baton;
 - h. Handcuffs;
 - i. Police radio;
 - j. Body armor.
2. If only the member's police powers are suspended, the member may retain their identification card and call box key, if applicable.
 3. Police members shall not wear their uniforms during any period of suspension.

D. REPORTING TO COMMANDING OFFICER

Any department member whose suspension with pay exceeds seven (7) consecutive calendar days shall report to their commanding officer, or shift commander if the commanding officer is unavailable, on at least a weekly basis (or more often as determined necessary by the commanding officer) during the member's normal duty hours. Such meetings allow for the service of subpoenas, departmental correspondence, and the exchange of any other information that may be important for the member during an extended period of leave.

E. MEMBER RESPONSIBILITIES

1. Department members who are suspended or discharged pending appeal shall conform to and abide by department standard operating procedures and/or Code of Conduct. Failure to comply with department standard operating procedures and/or Code of Conduct during the period of suspension or discharge pending appeal shall subject the member to additional charges of misconduct.
2. Police members who are suspended or discharged pending appeal are relieved of the responsibility to perform those tasks requiring the exercise of official police power. Such police members are not deemed to be peace officers and shall not go armed with a concealed or dangerous weapon (as defined by state statutes), in an official capacity.
(WILEAG 4.2.1.2)

870.20 FORMAL DISCIPLINARY CHARGES (WILEAG 4.2.1, 4.2.2)

A. AUTHORIZATION

Formal disciplinary charges may be preferred with the approval of the Chief of Police against any department member for any violation of the department standard operating procedures and/or Code of Conduct. Only a command officer assigned to the Internal Affairs Division may prefer formal disciplinary charges.

B. CHARGE SPECIFICATION

1. A charge specification is a statement of facts which constitute the offense charged. Charge specifications shall contain clear and concise language, shall state the name and rank of the accused, and the time and place of the alleged offense.
2. Charge specifications shall be prepared and signed by a commanding officer of the Internal Affairs Division.

C. NOTIFICATION LETTER

If formal disciplinary charges are preferred against a department member, either sworn or civilian, the Internal Affairs Division shall personally serve the notification letter on the accused member along with a copy of the formal disciplinary charges and a copy of the investigating supervisor's summary of the investigation. This notification letter shall provide an opportunity for the accused department member to file a *Department Memorandum* (form PM-9E) to the Chief of Police explaining the member's conduct. A copy of the notification letter, formal disciplinary charges and the investigating supervisor's summary of the investigation shall also be sent to the accused member's labor organization, if applicable, via U.S. mail, which may be certified.

D. DEPARTMENT MEMORANDUM (PM-9E) REPORT SUBMITTED BY MEMBER

1. The accused department member may consult with a representative of their choice in the preparation of the *Department Memorandum* (form PM-9E). If the department member chooses to submit this report, it must be received by the Internal Affairs Division no later than 4:00 p.m. on or before the 7th day following the date the member received the notification letter. If the 7th day falls on a weekend or a holiday, this report may be submitted on the next regular business day.
2. The department member's *Department Memorandum* (form PM-9E) may include a statement of the accused member's side of the story, including any mitigating factors or circumstances, and the name, address, telephone number, and nature of information possessed by any additional witnesses whom the member wishes department investigators to interview.
3. The Chief of Police shall consider the accused member's *Department Memorandum* (form PM-9E) before making any decision regarding guilt or innocence or imposition of discipline. If the department member chooses not to provide a report, the Chief of Police shall base his/her disciplinary decisions solely upon the information possessed by the department.

Note: Nothing contained herein shall preclude the Chief of Police from requiring a written statement if deemed necessary.

E. DISPOSITION

Charges preferred against any department member shall be heard and disposed of

directly by the Chief of Police.
(WILEAG 4.2.1.2)

870.25 CIVILIAN MEMBERS FACING POSSIBLE DISCHARGE (WILEAG 4.2.1)

Civilian members facing possible discharge shall follow a due process procedure including notice of charges and an opportunity to respond in writing in the form the *Department Memorandum* (form PM-9E) to the Chief of Police.
(WILEAG 4.2.1.2)

870.30 NO FORMAL CHARGES BROUGHT

When no charges result against a member from an investigation, the Internal Affairs Division shall so inform the member as soon as practicable, or within 120 consecutive calendar days. The member shall also be informed that if new information on the matter subsequently comes to the attention of the department, the department may still bring charges against the member. If a new investigation is authorized based on new information, the member shall be notified of this fact by the Internal Affairs Division as soon as practicable. Nothing herein shall limit or otherwise impair the department's right to conduct a criminal investigation without notice to a department member except as it may be required under applicable law. Notifications under this section shall be made by the Internal Affairs Division.

870.35 OFFICIAL DISCIPLINE FORM (PD-40)

An *Official Discipline Form* (form PD-40) shall be used in all cases when a department member receives official discipline, other than a PD-30E, or discharge as the result of a department order.

870.40 OFFICIAL DISCIPLINE PROCEDURES (WILEAG 4.2.1, 4.2.2, 4.2.3, 4.2.4)

A. INTERNAL AFFAIRS DIVISION RESPONSIBILITIES

The Internal Affairs Division shall:

1. Distribute the PD-40.
2. Complete the top portion of the PD-40 and deliver the PD-40 to the commanding officer of the member receiving official discipline.
3. Retain the original PD-40 after completion by the member's commanding officer.

B. COMMANDING OFFICER'S RESPONSIBILITIES

1. Upon receipt of the PD-40, the commanding officer of the member involved shall in a timely manner:
 - a. Provide a copy of the PD-40 to the member.

- b. Ensure the member understands the specific infraction of the department's standard operating procedures and/or Code of Conduct that was committed to include the reason, scope and effective date of discipline.
(WILEAG 4.2.3.1)
 - c. Advise the member of his/her appeal and/or hearing rights.
(WILEAG 4.2.3.2)
 - d. Explain to the member the principles of progressive discipline and that any future incident(s), whether related to the current incident or not, may result in a more severe penalty.
 - e. Require the member to read those sections of department standard operating procedures and/or Code of Conduct that apply.
 - f. Sign and date the PD-40 and return the original to the commanding officer of the Internal Affairs Division.
2. Notify the Human Resources Division that the above was accomplished.

C. PD-40 RETENTION

The original PD-40 shall be retained at the Internal Affairs Division, and a copy shall be retained in the member's personnel file at the respective work location according to the current record retention schedule.



EDWARD A. FLYNN
CHIEF OF POLICE