

Title 4: Employee Conduct

4.10 Discipline and Corrective Action

- A. The effectiveness of a law enforcement agency and its members depends upon community respect and confidence. The first goal of our department is to provide fair, efficient service to all our citizens consistent with our established mission statement, policies, procedures, rules, regulations, ethical codes, and administrative or executive orders as established by the department or Metropolitan Government. To advance the mission, it is vitally important that all departmental employees conduct themselves in a manner demonstrating unquestionable integrity, reliability, and honesty. Whether interacting with citizens, testifying in any court or legal proceeding, or providing information in any official setting, the success of a law enforcement agency rests upon the reliability of the member representing that agency. Therefore, all members sworn and civilian must conduct themselves in a manner consistent with policies, procedures, rules, regulations, ethical codes, and administrative or executive orders as established by the department or Metropolitan Government. Complete candor and fully truthful responses are required when employees are providing information or responding to inquiry related to any official duty. Employees must further demonstrate the professional integrity expected of them by the public in their behavior. Recognizing that a fundamental and unequivocal duty of all employees is to promote the efficient and effective operation of department and government operation through the pursuit of lawful objectives, any conduct which detracts from this respect and confidence is detrimental to the public interest. It is equally detrimental to the effectiveness of the department, the efficiency of department operations and the morale of all members. Such behavior is, therefore, prohibited under applicable departmental policy. When circumstances suggest that a member has engaged in prohibited conduct, it is the policy of the department to investigate and impose disciplinary action when appropriate.
- B. The establishment of procedures for investigating complaints and allegations of employee misconduct is crucial to the demonstration and protection of departmental and employee integrity. The police department shall fairly and impartially investigate all complaints about employee misconduct to determine the validity of allegations. Findings shall be indicated in a timely and consistent manner.
- C. Any department employee who observes or becomes aware of any act of misconduct by another member of the government shall immediately

report the incident to their immediate supervisor or the most appropriate Metropolitan Nashville Police Department (MNP) supervisor. Failure to report such activity is considered misconduct and subject to administrative investigation and sanctions. *(Violation of this provision may be charged up to and including the category of the underlying offense not reported.)*

- D. Consistent with this policy, other established procedures, and the Rules of the Metropolitan Government Civil Service Commission, it is recognized that the public interest and the mission of the Police Department is best served by resolving allegations of misconduct in a timely and expedient manner. Therefore, all appropriate supervisory personnel should monitor the progress of any disciplinary issue within their concern and take all necessary action to ensure the matter is concluded without undue delay.
- E. It shall be the policy of the MNP) that while all applicable violations of rules and regulations shall be considered, employees should be sanctioned only on those charges that appropriately and adequately address the misconduct.
- F. All components of the MNP) shall be responsible for making information available to the public regarding procedures to be followed in filing complaints against the department or its employees.
- G. It is recognized that this policy should be reviewed and amended from time to time in order to best accomplish the mission and goals of the MNP). Upon discussion, recommendation, and due consideration, the Chief of Police shall cause such amendments and modifications to be made.

4.10.010 Definitions:

- A. **Case Hearing Officer:** Supervisory personnel assigned to preside over a departmental hearing to ensure all applicable procedures are followed. The case hearing officer shall also present the final conclusion of fact and recommended sanction to the Chief of Police for approval.
- B. **Commander's Hearing:** Hearing held by an employee's Division Commander, with the approval of the Chief of Police, for category F through category C violations of policies, rules or procedures of Metropolitan Government of Nashville and Davidson County.
- C. **Complaint:** An allegation from any person, expressed orally or in writing, which provides a reasonable belief that circumstance(s) exist

which, if proven, would amount to employee misconduct, or an expression of dissatisfaction from an external source with a policy, procedure, practice, philosophy, service level or legal standard of the agency.

- D. **MNPD Form 311: Remedial Counseling Report:** Official departmental form utilized to document remedial counseling of departmental personnel by authorized supervisory personnel. Counseling documented on this form is not considered corrective or disciplinary action in and of itself. However, it may be completed as part of any formal corrective or disciplinary action to document the counseling that occurred as part of such action.
- E. **MNPD Form 312: Complaint Report:** Official departmental form used to document all complaints. The MNPD Form 312 requires that a control number be assigned for internal tracking purposes prior to submission through the appropriate chain of command.
- F. **MNPD Form 313A: Corrective Action/Counseling Form:** Official departmental form utilized by authorized supervisory personnel to document formal counseling and/or corrective action taken to correct unsatisfactory employee performance or behavior. Any such action documented on this form is considered official corrective action and will be placed in the employee's personnel file. The MNPD Form 313A requires that a control number be assigned for internal tracking purposes prior to submission through the appropriate chain of command.
- G. **MNPD Form 313: Internal Disciplinary Resolution Form:** Official departmental form used to document violations of the policies, rules or procedures of the department, when job performance may have adversely affected the personal and/or property rights of others, involvement in illegal activity is suggested, or otherwise requires further investigation.
- H. **MNPD Form 343: Remedial Training Request:** Official departmental form utilized by authorized supervisory personnel to request specific remedial training for personnel under their command. Remedial training documented on this form is not considered corrective or disciplinary action in and of itself. However, it may be completed as part of any formal corrective or disciplinary action to document the training that occurred as part of such action.
- I. **Conclusion of Fact/Investigative Finding:** Drawn from the evidentiary facts, and may include any changes, or recommendation for changes in policies, procedures, rules, and regulations that may

prevent future allegations of misconduct, as well as the need to modify or expand existing training.

- J. **Corrective Action:** An action that may be taken against an employee in an effort to correct a situation that, if uncorrected, may require disciplinary action.
- K. **Department Advocate:** The Department Advocate is a resource used by the department to prepare a summary on each administrative charge and prepare a brief identifying the specific conduct supporting each charge. Department Advocate procedures are maintained in the Case Preparation Division Standard Operating Procedures.
- L. **Disciplinary Action:** An action that may be recommended against an employee when he/she fails to follow the policies, rules or procedures of the department. Disciplinary action should be taken to correct a situation where lesser remedial or corrective action is ineffective, inappropriate, or would appear futile under the circumstances.
- M. **Disciplinary/Corrective Action Grid:** A tool used by supervisors and employees to identify the range of sanctions for a sustained investigation of a complaint. The Disciplinary/Corrective Action Grid provides a range of suggested sanctions for proven or admitted allegations. No disciplinary recommendation is final until approved by the Chief of Police. The Disciplinary / Corrective Action Grid shall be used whether the employee elects to have a departmental hearing or agrees to a sanction.
- N. **Last Chance Agreement:** A contractual agreement between the department and employee, consistent with provisions herein, where the employee agrees to specified terms and conditions of continued employment. The duration of the agreement shall be for a specified period of time.
- O. **Misconduct:** Misconduct is an act or omission by an employee, which if proven, may result in some form of remedial, corrective, or disciplinary action. This would include: commission of a criminal act, neglect of duty, failure to act as instructed or required, violation of a policy, rule or procedure of the department, or conduct which may reflect unfavorably upon the employee and/or the department.
- P. **Presentation Meeting:** The first meeting, scheduled by the initiating authority and held as soon as practical but no more than five (5) calendar days after completion of an approved form, in order for the initiating authority to present MNPD Form 311, 313A, 313 and/or 343 to an employee.

- Q. **Reflection Period:** A period of reflection where the employee has up to ten (10) calendar days to consider the findings and recommended sanction after being presented with MNPD Form 313.
- R. **Remedial Action:** An action that may be taken to provide counseling or training for an employee to assist in correcting or modifying behavior. This may be in addition to corrective or disciplinary action.
- S. **Retention Period:** The period of time for which a prior sustained violation of policy may be used or considered when determining if a new violation is a second, third, or other consecutive offense. The retention period for any offense begins when the Chief of Police approves the final sanction.

Example: An incident occurs on August 8, 2008. After a full investigation, it is determined that a policy was violated which resulted in a MNPD Form 313 charging a category D offense. Ultimately, after review through the chain of command, the Chief of Police approves the MNPD Form 313 on January 1, 2009. For purposes of calculating retention period on this offense, the start date will be January 1, 2009. The same officer is involved in another incident in March 2010 and the conduct charged was the same or similar. That would make it a 2nd offense. Later, the same employee is charged with the same or similar conduct on September 2012. This would be a 3rd offense as it is within the retention period from the charged 2nd offense. For this offense to become a 1st offense, the prior 2nd offense must be outside the retention period.

- T. **Settlement Meeting:** The second and final meeting, occurring after the Presentation Meeting and a Reflection Period, where an employee, having been presented with MNPD Form 313 makes a selection of the negotiated sanction or a disciplinary hearing.
- U. **Waiver:** A written document wherein an employee voluntarily relinquishes a right or privilege otherwise provided for in established policy, rules or procedure.

4.10.020 Investigation of Complaints: Supervisor Initiated:

- A. Supervisory personnel shall initiate a preliminary inquiry to determine if grounds exist to conduct an administrative investigation when:
 - 1. A complaint is received alleging a simple infraction of established standards of conduct or job performance that does not adversely affect the personal and/or property rights of others. The criteria for investigation of a complaint by a department supervisor may include alleged rudeness on the part of an employee, tardiness, or insubordination.
 - 2. A complaint is received that does not suggest illegal conduct; or
 - 3. A complaint is received that otherwise requires further extended investigation at the supervisory level.
 - 4. Provisions 1 – 3 above do not include situations where a citizen disagrees with an otherwise legal and appropriate application of the law (e.g., the issuance of a citation, and there is no further accusation of misconduct). Such matters shall be determined by the courts.
- B. If the concerned employee's supervisor did not initiate the complaint, the supervisor shall document the receipt of the complaint, their involvement, and any relevant information received. The supervisor should then refer the complaint to the supervisor of the involved employee.
- C. The allegation, along with the investigating supervisor's response, shall be documented on the appropriate MNPD form. Copies shall be forwarded to the Office of Professional Accountability (OPA) and the Office of the Chief of Police through the chain of command of the involved employee. The primary responsibility for completion of the initial investigation, including any recommendation for disciplinary action or a request for additional investigation, rests with the immediate supervisor of the involved employee.
- D. Any recommendation from the investigating supervisor for additional investigation by the Office of Professional Accountability must be made by official memo with clear justification for the request.

- E. Upon notification of the employee's supervisor and/or commander, the Office of Professional Accountability may assume concurrent or sole authority for the investigation at anytime.
- F. Should an investigation, at any time, reveal evidence of criminal conduct, all available information shall be forwarded to the Chief of Police and to the Office of Professional Accountability as soon as possible.
- G. Supervisors of the involved employee shall document complaints and conduct a proper investigation.
- H. Complaints involving serious misconduct, alleged illegal behavior, or complex cases outside the scope of the investigative capability of the involved units, may be referred to the Office of Professional Accountability after the completion of an initial investigation. Such referrals shall be approved by the Precinct/Division Commander or Director. Complaints shall not be referred to the Office of Professional Accountability solely because the need for discipline is indicated by the initial investigation.
- I. The supervisor of the involved employee shall keep the complainant informed concerning the status of a complaint, to include at a minimum:
 - 1. Verification that the complaint has been received for processing.
 - 2. Status reports regarding the progress of the investigation every fifteen (15) calendar days.
 - 3. Notification of the results upon conclusion of the investigation.
 - 4. Investigative reports prepared by supervisors will include a "conclusion of fact". The "conclusion of fact" is drawn from the evidentiary facts, and may include any changes, or recommendation for changes in policies, procedures, rules, and regulations that may prevent future allegations of misconduct, as well as the need to modify or expand existing training.
- J. Supervisor Initiated Investigative Timelines:
 - 1. Active Investigations should be completed within forty-five (45) calendar days from the date the employee has received formal notification that they have become the subject of an internal investigation, or from the date when an employee cannot reach a settlement with his/her supervisor(s) on the allegation, whichever is

the later date. Investigations may exceed forty-five (45) calendar days with the approval of the Chief of Police or designee. The complainant and employee shall be notified of the approved extension request. Unless the circumstances, including, but not limited to, the type of offense and the allegations known to the Department, indicate otherwise, the employee will be notified within ten (10) calendar days of receipt of the complaint. The investigating supervisor shall forward the status of any open investigations to the Commander of The Office of Professional Accountability monthly.

2. The above timelines are not applicable to preliminary inquiries or fact-finding used to determine the need for a formal investigation or to determine the appropriate investigative resource. Additionally, the forty-five (45) calendar day timeline would not apply to cases involving circumstances beyond the control of the investigative unit, e.g., cases pending litigation, requiring covert investigation, or where the employee is not readily available for the investigation to precede.

4.10.030 Investigation of Complaints: Office of Professional Accountability

- A. The Office of Professional Accountability shall review complaints against employees, whether initiated by the public or by a member of the department.
- B. The Director of the Office of Professional Accountability shall be directly accountable to the Chief of Police and the Mayor for the proper administration, general management, and control of all matters related to the operation of that division. The Director of the Office of Professional Accountability has the authority to report directly to the Chief of Police and the Mayor.
- C. The Office of Professional Accountability may initiate an investigation of alleged employee misconduct, with or without a formal complaint, with the prior knowledge and approval of the Chief of Police or designee.
 1. The role of the Office of Professional Accountability is to investigate administrative (departmental) violations, and if during an investigation there are potential criminal violations, the criminal aspect of the investigation will be referred to the appropriate criminal investigative unit.
 2. The Office of Professional Accountability may continue their investigation of the potential administrative violations, as a separate investigation from any criminal investigation. OPA may continue, or

have continued, an administrative investigation to assess or establish an administrative duty or omission of duty relevant to the underlying criminal investigation.

3. The criteria for determining the categories of complaints to be referred to the Office of Professional Accountability may include, but are not limited to: allegations of corruption, brutality, misuse of force, major breach of civil rights and criminal misconduct. When an allegation of misuse of force is reported to the immediate supervisor, it shall be the responsibility of that supervisor to conduct a preliminary investigation into such allegations before reporting them to the Office of Professional Accountability.
 4. **The Chief of Police shall be informed through the chain of command about major complaints as soon as possible, and no later than the start of the next business day.**
- D. The Office of Professional Accountability may make additional inquiry or use investigative measures deemed necessary to verify, authenticate or clarify the findings and recommendations of a supervisor initiated investigative report. The Office of Professional Accountability may include these findings and disposition recommendations with the report submitted to the Chief of Police and the Deputy Chief or Commander/Director of the involved employee.
- E. The Office of Professional Accountability shall complete an appropriate MNPD form (311, 313A, 313, or 343) for any investigation initiated by the Office of Professional Accountability where there has been an investigative finding that an employee has violated any policy, procedure, rule or regulation of the Metropolitan Nashville Police Department or the Civil Service rules and regulations. The completed MNPD form(s) shall accompany the official report.
- F. The Office of Professional Accountability shall have the following additional responsibilities.
1. Maintain a complaint log,
 2. Maintain a central file of complaints in a secured area and in conformity with records retention requirements from state law,
 3. Conduct a regular audit of complaints to determine the need for changes in training or policy, and report the findings to the Chief of Police and Deputy Chiefs,

4. Maintain statistical and related information to identify trends involving all complaints of excessive force and abuse of authority, and
 5. Track complaints against individual employees to assist in employee risk analysis.
- G. The Chief of Police and/or Office of Professional Accountability investigators shall keep the complainant informed concerning the status of a complaint, to include:
1. Verification that the complaint has been received for processing.
 2. Status reports regarding the progress of the investigation every thirty (30) calendar days.
 3. Notification of the results upon conclusion.
- H. Investigative reports prepared by the Office of Professional Accountability into allegations of misconduct will include an "Investigative Finding". The "investigative finding" is drawn from the evidentiary facts, and may include recommendations to changes in policies, procedures, rules, and regulations that may prevent future allegations of misconduct, as well as the need to modify or expand training.
- I. The Office of Professional Accountability shall compile an annual statistical summary based on records of employee investigations, to be made available to the public and department employees.

4.10.040 Office of Professional Accountability Records and Confidentiality

- A. The Office of Professional Accountability shall be informed of all final disciplinary decisions.
- B. The case files at the Office of Professional Accountability shall be maintained separately from personnel records.
- C. OPA Investigative Timelines:
1. Active Investigations should be completed within forty-five (45) calendar days from the date the employee has received formal notification that they have become the subject of an internal investigation, or from the date when an employee cannot reach a settlement with his/her supervisor(s) on the allegation, whichever is the later date. Investigations may exceed forty-five (45) calendar

days with the approval of the Chief of Police or his designee. The complainant and employee shall be notified of the approved extension request. Unless the circumstances, including, but not limited to, the type of offense and the allegations known to the Department, indicate otherwise, the employee will be notified within ten (10) calendar days of receipt of the complaint. The commander of the Office of Professional Accountability will forward a status report twice monthly of all active cases to the Chief of Police.

2. The above timelines are not applicable to preliminary inquiries or fact-finding used to determine the need for a formal investigation or to determine the appropriate investigative resource. Additionally, the forty-five (45) calendar day timeline would not apply to cases involving circumstances beyond the control of the investigative unit, e.g., cases pending litigation, requiring covert investigation, or where the employee is not readily available for the investigation to proceed.
3. An investigation is closed when it has been reviewed and approved as closed by the appropriate supervisory personnel of the assigned investigator.
4. A closed investigation may be re-opened upon receipt of new information.

4.10.050 Investigative Interviews, Examinations & Searches

A. Formal Investigative Interviews

1. The provisions provided in this section are intended to provide guidance to supervisors in conducting formal investigative interviews and are not applicable to routine questioning or preliminary inquiries. A formal investigation is generally described as one where the target of the investigation has been identified and disciplinary action is expected or pending.

NOTE: *Provisions applicable to OPA conducted interviews, examinations and searches are in the OPA Standard Operating Procedures and available for inspection during normal business hours.*

2. When an employee receives official notification that they have become the subject of a formal internal investigation, the investigating authority shall issue the employee a brief statement of the allegations and refer the employee to Article 4.10.050, Section (A)(4) concerning their rights and responsibilities relative to the

investigation. Unless the circumstances, including, but not limited to, the type of offense and the allegations known to the Department, indicate otherwise, the employee will be notified within ten (10) calendar days of receipt of the complaint.

3. Significant misconduct or criminal activity.
4. The employee under formal investigation shall also be given the following admonitions preceding an interview by an investigator:
 - a. You are advised that this is a formal internal administrative investigation only.
 - b. You shall be asked and are required to answer all questions specifically related to the performance of your duties, and your fitness for office.
 - c. If you refuse to answer these questions, you can be subject to disciplinary action that may include discharge or removal from office. You may also be subject to disciplinary action for knowingly giving false statements.
 - d. These Rights ¹are those provided to the employee in administrative investigations. In no way should it be construed that these rights ²are provided in a criminal investigation. If at any point during questioning about an administrative investigation there is a determination the conduct may involve a potential criminal violation, all questioning will stop and further investigation, criminal or administrative, will proceed as appropriate.
5. Counsel During an Interview
 - a. Employees may have an attorney, employee group representative, supervisor, or a personal representative with them during any formal internal investigative interview. The representative cannot be involved as a participant in the interview, as a witness, or where there is an allegation that the representative is a participant in any manner.
 - b. The employee representative's role is that of an observer only.

¹ Garrity vs. New Jersey, 385, U.S. 493 (1967)

² Garrity vs. New Jersey, 385, U.S. 493 (1967)

- c. An interview may not be unreasonably delayed by requests for changes in personal representatives, or requests for representatives not currently available under this subsection.

B. Examinations and Searches

1. The department may direct that the employee undergo an intoximeter, blood, urine, psychological, polygraph, computer voice stress analysis (CVSA), medical examination or any other exam not prohibited by law or policy, provided the examination is pertinent to an administrative investigation (*Exams such as these which may be part of a criminal investigation are guided by existing criminal investigative laws*). Refusal to sign, or alteration of a waiver to submit to any of the referenced examinations, shall be considered a refusal to submit to the exam. (*Violation of this provision shall be a category A Offense*)
2. Polygraph and/or Computer Voice Stress Analysis (CVSA) reports may be submitted for consideration with the investigative file. Polygraph/CVSA examinations unaccompanied by other objective evidence will not conclusively establish or refute allegations of misconduct. Employees will not be subject to corrective action or discipline solely on the results of a polygraph or CVSA examination.
3. Employees may request a second medical, laboratory, polygraph, other examination, or have test results independently reviewed; however, employees shall incur all costs for secondary testing or review. If a polygraph or CVSA examination is not requested during an investigation, employees may obtain an examination at his/ her expense.
4. No additional or subsequent CVSA or Polygraph testing, nor review, critique or evaluation of any test results, will be performed by departmental personnel except upon request of the initial examiner or the initial examiner's supervisor(s) or other personnel with primary responsibility for conducting the investigation.
5. An on-duty supervisor may direct an employee to submit to a breath or urine test as stated in current department policy on substance abuse. This would not preclude an employee from volunteering to submit to such tests.
6. An employee can be required to physically participate in a lineup for investigative purposes in an administrative investigation.

7. No employee of the Metropolitan Police Department shall have an expectation of privacy in any property, facility, or storage area issued to or used by them. This shall include personally owned property transported and/or stored within any departmentally owned, issued or utilized vehicle, facility or storage area.
 8. Photographs of an employee may be taken if such photos are pertinent to an administrative investigation.
 9. An employee may be required to submit financial disclosure statements, if there is reason to believe that such items are pertinent to an administrative investigation.
- C. An employee who withholds information during an internal investigation, or fails to cooperate with internal investigations, is subject to disciplinary action. This discipline may be in addition to any other disciplinary action based on conduct disclosed by the primary investigation. (*Violation of this provision shall be a category A Offense*)

4.10.060 Investigative Finding

- A. At the conclusion of an investigation of alleged misconduct an “Investigative Finding” will be made. These findings will be reported to the involved employee(s) and through the chain of command to the Chief of Police. Once such findings are approved they shall also be reported to the complainant. The “Investigative Finding” will be derived from the following criteria and shall be reported as follows:

Exonerated – An incident did occur but the action was consistent with established policy, rules, or procedure.

Sustained – The allegation is true. The action was inconsistent with established policy, procedure, or rules.

Policy/Training Failure – Although the action was consistent with departmental policy or training, the need to review, revise or develop departmental policy, procedure or training was identified.

Not Sustained – There is not sufficient evidence to sustain or refute the allegation.

Unfounded – The allegation was proven false.

Matter of Record – Cases may be administratively closed and maintained as a matter of record that the complaint was made, when the investigation cannot conclusively disprove complaint allegations or

establish that the alleged events occurred. This designation may also be used when investigations are closed or suspended due to the remoteness of subject events, unavailability of necessary witnesses or unavailability of the subject. (e.g. military leave, incapacitating illness). The summary will report all investigative efforts and acknowledge that the investigation may be revisited at a later date, if additional information becomes available.

B. Associated Recommendations

The investigating authority may make such additional recommendations it deems necessary, to include but not limited to:

1. The need for remedial, corrective, or disciplinary action,
2. The need to review or revise departmental policy, procedure, or training,
3. Or any other recommendation the investigating authority deems relevant; and/or
4. Any misconduct that may be identified which was not associated with the original complaint.

C. In the event of disagreement as to the proposed finding(s), supervisors at any level may document their rationale in a correspondence to be attached to the recommendation.

4.10.070 MNPD Form 311: Remedial Counseling Report

- A. Counseling may be used to accomplish many goals. One purpose is to allow supervisors an opportunity to explain why they are dissatisfied with an employee's behavior. Secondly, counseling gives an employee the opportunity to present their version of what caused the behavior. Another purpose is to correct a minor infraction, or to put an employee on notice of a possible problem.
- B. When a supervisor identifies an employee with a problem in an area, subject matter, or performance the supervisor believes is not serious, the supervisor should document the behavior and counsel the employee. During the counseling session, the problem will be discussed and the supervisor shall set guidelines for the employee to follow to alleviate the problem.
- C. The supervisor shall document the counseling session on MNPD Form 311, Remedial Counseling Report, allowing joint commitment by the

employee and the supervisor as to expectations, and used as needed for documentation at a later time. Such form may be retained at the division level as part of the employee file.

- D. If the situation has not been corrected after the remedial counseling session, any further neglect, inability or failure of an employee to appear, act, or perform as instructed or required, may constitute grounds for corrective or disciplinary action.
- E. Counseling under this section is not considered corrective or disciplinary action in and of itself. However, it may be combined and included with corrective or disciplinary action to document the counseling that occurred as part of such action. Formal counseling sessions designed to serve as corrective action are covered in Article 4.10.100.
- F. Remedial counseling or any verbal counseling initiated by any supervisor shall not preclude a reviewing supervisor or the initiating supervisor from initiating corrective or disciplinary action from the incident in question.

4.10.080 MNPD Form 343: Remedial Training Request

- A. Employees of the department who are found by their supervisors to be deficient in some area may be required to attend training sessions designed to remedy the problem. An employee can also request remedial training in areas he/she wishes to become more proficient.
- B. The training should be given at the earliest opportunity. The following methods of instruction may be used:
 - 1. Training provided by any authorized departmental personnel;
 - 2. Re-assignment to a Field Training Officer;
 - 3. Enrollment in a course of instruction sponsored by MNPD or another agency; or
 - 4. Any other training deemed necessary or appropriate.
- C. When inefficiencies are identified, supervisors shall document that an employee is in need of additional training and forward this report to their Precinct/Division Commander or Director. The Precinct/Division Commander or Director shall direct the employee to participate in the type of training deemed necessary to correct the deficiency.
- D. If the employee fails to complete the training, or the situation has not been corrected after the training is complete, any further neglect,

inability or failure of an employee to appear, act, or perform as instructed or required, may constitute grounds for disciplinary action.

- E. Remedial training under this section is not considered corrective or disciplinary action in and of itself. However, it may be combined with corrective or disciplinary action to document the training that occurred as part of such action.
- F. Remedial training or any verbal training or instruction initiated by any supervisor shall not preclude a reviewing supervisor from initiating corrective or disciplinary action from the incident in question.
- G. MNPDP Form 343, Remedial Training Request Form shall be used to document any training recommended, approved and provided. Only employees designated as having supervisory authority shall complete a MNPDP Form 343. If a MNPDP Form 312, 313A or 313 is generated in conjunction with a request for remedial training, a copy of the MNPDP Form 343 shall be attached to the 312, 313A, or 313 and the original forwarded to the Training Academy to be entered into the employee's training records.

4.10.090 MNPDP Form 312: Complaint Report

- A. Supervisory employees shall complete a MNPDP Form 312, Complaint Report upon receipt of a complaint.
- B. The MNPDP Form 312, Complaint Report, upon completion of a proper investigation, may be the basis for remedial, corrective or disciplinary action and shall be attached to and processed with the appropriate MNPDP Form 311, 313A, 313, and/or 343.
- C. Whenever the complaint alleges a simple infraction of established standards of conduct or job performance that does not adversely affect the personal and/or property rights of others, suggest illegal involvement, or otherwise require formal investigation, the supervisor shall report an appropriate conclusion of fact, and the resolution on the MNPDP Form 312, Complaint Form. The supervisor may include any supporting documentation as an attachment. When such complaint is resolved on the Form 312, the Division Commander shall approve such resolution and forward the Form 312 consistent with the provisions herein.
- D. This is not meant to include situations where a citizen disagrees with an otherwise legal and appropriate application of the law. These matters shall be resolved by the appropriate courts.

- E. When the complainant does not meet the criteria of section “C” above (simple infraction), the MNPDP Form 312, Complaint Form shall be the basis for conducting further investigation at the Division level or referred to the appropriate investigative authority. The MNPDP Form 312, Complaint Form shall be attached to any Form 313A, Corrective Action/Counseling Form or Form 313, Internal Disciplinary Resolution Report, generated as a result of the complaint.

4.10.100 MNPDP Form 313A: Corrective Action /Counseling Report

- A. Only employees designated as having supervisory authority shall complete a MNPDP Form 313A, Corrective Action/Counseling Form.
- B. Whenever the supervisor determines or an investigation reveals more than a simple infraction of established standards of conduct or job performance that does not adversely affect the personal and property rights of others, suggest illegal involvement, or otherwise require further investigation, the supervisor shall complete a MNPDP Form 313A, Corrective Action/Counseling Form.
- C. The MNPDP Form 313A, Corrective Action/Counseling Form shall be used to document formal counseling sessions designed to serve as corrective action, oral reprimands, written reprimands, or to recommend reassignment.

4.10.110 MNPDP Form 313: Internal Disciplinary Resolution Report

- A. Only employees designated as having supervisory authority shall complete a MNPDP Form 313, Internal Disciplinary Resolution Form.
- B. The supervisor shall complete a MNPDP Form 313, Internal Disciplinary Resolution Form, whenever the supervisor determines, or an investigation reveals, a violation of the policies, rules or procedures of Metropolitan Government of Nashville and Davidson County has occurred, when job performance may have adversely affected the personal and property rights of others, involvement in illegal activity is suggested, or otherwise requires further investigation.
- C. The MNPDP Form 313, Internal Disciplinary Resolution Form shall be used to document and recommend administrative leave, suspension, demotion, or dismissal. Any aggravating or mitigating factors shall also be documented.

4.10.120 Processing of MNPB Forms 311, 312, 313A, 313, and 343

- A. An MNPB Form 311, 312, 313A, or 313, once generated and a control number assigned, is considered an official document of the Metropolitan Police Department and its preservation is governed by established policy on the preservation of official documents.
- B. The reporting supervisor shall submit all MNPB Forms 312, 313A, and 313 through the appropriate chain of command for review and/or approval consistent with provisions herein.
- C. After final resolution, originals of all MNPB Forms 312, 313A, and 313 shall be forwarded to the Office of the Chief of Police for storage and safekeeping. Upon receipt by the Office of the Chief of Police, appropriate copies shall be forwarded to MNPB Human Resources Division. Copies of all MNPB Forms 312, 313A, and 313 shall be forwarded to the Office of Professional Accountability. Upon receipt, The Office of Professional Accountability shall store and maintain the forms as required by law. Any destruction of such records will be conducted in accordance with established law regarding maintenance and retention of public records.
- D. Processing procedures for MNPB Form 343, Remedial Training Request, are found in existing departmental policy and procedure regarding training standards.

4.10.130 Determining the Appropriate Charge

- A. In determining the appropriate charge(s) the supervisor shall ensure, after a thorough and accurate investigation, all facts and circumstances are reviewed in light of established policy, rules, and procedures of the Metropolitan Government of Davidson County.
- B. When conduct is determined to fall within multiple policies, rules, or procedures, and/or may be charged under multiple categories, guidance may be sought by reviewing of records of similar occurrences, from the chain of command, or consult with authoritative sources (e.g. OPA or Department Advocates) prior to creating a formal charging instrument.
- C. The Precinct/Division Commander or Director will make a final Precinct or Division level recommendation regarding the appropriate charge, along with any aggravating or mitigating factors. The recommendation will be subject to the review of the Deputy Chief or Director of the employee's chain of command. The supervisor shall list all appropriate charges on the charging instrument. It will be the responsibility of the

charged employee's supervisor to research the employee's disciplinary history, make a decision as to the nature of the offense, and identify aggravating/mitigating factors that may enhance or reduce sanctions or indicate referral to OPA would be appropriate.

- D. The formal charging instrument is a MNPDP Form 313A, or MNPDP Form 313 with a control number assigned. In the event of disagreement as to the proposed charge(s), supervisors at any level may document their rationale in a correspondence to be attached to the recommendation.
- E. All charges related to a single incident shall be included in one filing of charges on a single charging instrument (MNPDP Form 313A or MNPDP Form 313).

4.10.140 The Disciplinary/Corrective Action Grid

- A. Application Of The Disciplinary / Corrective Action Grid:
 - 1. The Disciplinary / Corrective Action Grid provides a range of sanctions for proven or admitted allegations. Upon completion of the investigation, the investigating supervisor, along with his/her chain of command (up to and including Precinct/Division Commander or Director), will determine the appropriate level of severity for the offense.
 - 2. The Precinct/Division Commander or Director will make a final Precinct or Division level recommendation regarding where the alleged conduct falls on the Disciplinary/Corrective Action Grid and the recommended sanction. The recommendation will be subject to the review of the Deputy Chief or Director of the employee's chain of command. In the event of disagreement as to the proposed sanctions, supervisors at any level may document their rationale in a correspondence to be attached to the recommendation.
 - 3. The formal hearing process will continue to be an alternative for an employee to utilize when they feel like they are not responsible for the alleged behavior, and/or disagree with the suggested disciplinary action. However, it is believed that most employees who have engaged in misconduct would like the opportunity to acknowledge their behavior, accept responsibility and a reasonable sanction so they can move forward with their careers. Many occurrences of misbehavior are mistakes in judgment that can be corrected by a reasonable corrective or disciplinary action, so the employee can go forward as a productive and contributing member of the department.

B. Continued Misconduct or New Information:

1. Continued misconduct after an employee has reached the third offense of any category of disciplinary violation raises the sanction to the third offense in the next highest offense category of the highest category of any of the previous three or more offenses.

For example: a fourth violation for an F category offense will be disciplined as a third E category offense. Subsequent violations will follow the same process, in that; a fifth F category offense would be sanctioned as a third D category offense.

2. Any subsequent violation of a policy within the same offense category within the stated retention period is considered a second or third offense.
3. Any settlement agreement or final sanction reached prior to the introduction or discovery of new information may be invalidated depending upon the nature of the new information disclosed, and may result in the employee receiving new or additional charges, and/or new or additional sanctions.

C. Aggravating and Mitigating Factors:

1. The grid does not include specific mitigating and aggravating circumstances, however, any mitigating or aggravating circumstances being used by the reporting supervisor should be documented on the MNPD Form 313 and specifically described in an attached document.
2. In determining aggravating and mitigating factors, supervisors shall consider conduct related to the charged offense or related prior conduct.
 - a. In determining aggravating factors, such conduct may be the absence of exigent circumstances, the employee's rank, position, or assignment, effect on morale, intention to circumvent policy, disregard or opposition to authority, creation of jeopardy, injury to employee or citizen, increased risk of harm to self or others, inappropriate exercise of authority, withholding of information, gross negligence, ignorance of law or fact, or similar factors.
 - b. In determining mitigating factors, such conduct may be the necessity for immediate appropriate action, a sudden or unforeseen occurrence or condition, existence of exigent

circumstances, voluntary disclosure and correction, genuine mistake of law or fact, or similar factors.

3. Aggravating factors can raise the penalty one category level in the same offense range (e.g. a category D 2nd offense would become a category C 2nd offense).
4. Mitigating factors can lower the penalty one category level in the same offense range (e.g. a category C 2nd offense would become a category D 2nd offense).

4.10.150 Presenting Findings to the Accused Employee

A. General Provisions for the Presentation Meeting

1. The supervisor initiating corrective or disciplinary action against an employee shall be responsible for notifying the employee of the act or acts that brought about the action, and the employee's rights under Civil Service Rules, including any right to a departmental hearing. The Precinct/Division Commander (or Civilian Equivalent) shall be responsible for conducting a meeting with the employee to present the findings of the investigation and a proposed resolution (e.g. MNPD Form 311, 313A, 313, or 343). Such forms should be completed after the investigative findings have been presented to the Precinct/Division Commander (or Civilian Equivalent), and after any appropriate review by the Office of Professional Accountability, the Police Training Academy (for MNPD Form 343), or similar consulting authority.
2. This initial meeting, hereinafter referred to as the Presentation Meeting, shall be held as soon as practical but no more than five (5) calendar days from the completion of MNPD Forms 311, 313A, 313, or 343. The five (5) calendar day timeline begins with the approval of the form by the affixing of a signature and date by the Precinct/Division Commander (or Civilian Equivalent). This five (5) day schedule is to provide ample notice to the involved employee in order to identify and secure the attendance of counsel or employee representative and to be fully prepared to discuss the matter.
3. When scheduling the Presentation Meeting with the affected employee, copies of the documentation used to determine the corrective or disciplinary action, along with the appropriate MNPD Form (311, 312, 313A, 313 and/or 343) will be provided to the employee in order that they may prepare for the Presentation Meeting.

4. During this Presentation Meeting, the recommended charges, if any, and the recommended corrective/disciplinary action will be presented to the employee in the form of an appropriate MNPD form. The meeting will be conducted by the accused employee's chain of command (including the Precinct/Division Commander or Civilian Equivalent and including the accused employee's supervisor).
5. If, during the presentation or settlement process, the Precinct/Division Commander (or Civilian Equivalent) determines that extraordinary circumstances exist and that additional time for review and consideration of new information, or is otherwise indicated to be in the best interest of the department or employee, the Precinct/Division Commander (or Civilian Equivalent) may request an extension of up to ten (10) additional calendar days with the approval of the Bureau Commander.
6. The employee may select a representative to accompany him/her to the meeting. However, the availability of an employee representative or counsel should not be cause to unreasonably delay any meeting
7. The employee will be formally presented copies of the documentation used to determine the corrective or disciplinary action, along with the appropriate MNPD Form (311, 312, 313A, 313 and/or 343), and will be given an opportunity to read the documents and consult with his/her representative.
8. The accused employee's supervisor will review, with the employee, the different procedural alternatives available under existing policy that the employee has available to resolve the matter.
9. Upon request of the employee, the Precinct or Division Commander or Civilian Equivalent shall ensure the employee receives a copy of or has access to any MNPD policies governing the departmental violation(s) and the departmental policies on Department and Personal Appearance and Discipline and Corrective Action.
10. The proper and orderly administration of the disciplinary process requires that the Presentation Meeting-this initial meeting be conducted in a timely manner.

B. Timelines for MNPD Corrective/Disciplinary Action

	Form Completion	Presentation Meeting	Settlement Meeting (After Reflection Period)	Extraordinary Circumstance Extension	Maximum Time From Complete Report to Resolution by Settlement or Hearing Selection
MNPD Form 311: Remedial Counseling	Without undue delay at completion of investigation.	No more than five (5) calendar days after completion of an approved form.	Not Available	Up to ten (10) additional calendar days with the approval of the Bureau Commander.	Fifteen (15) calendar days.
MNPD Form 343: Remedial Training Request	Without undue delay at completion of investigation.	No more than five (5) calendar days after completion of an approved form.	Not Available	Up to ten (10) additional calendar days with the approval of the Bureau Commander.	Fifteen (15) calendar days.
MNPD Form 313A: Corrective Action/Counseling Form	Without undue delay at completion of investigation.	No more than five (5) calendar days after completion of an approved form.	Not Available	Up to ten (10) additional calendar days with the approval of the Bureau Commander.	Fifteen (15) calendar days.
MNPD Form 313: Internal Disciplinary Resolution Form	Without undue delay at completion of investigation.	No more than five (5) calendar days after completion of an approved form.	On or before the tenth (10 th) calendar day from the Presentation Meeting.	Up to ten (10) additional calendar days with the approval of the Bureau Commander.	Twenty-Five (25) calendar days.

C. Presentation Meeting: MNPD Form 311, Remedial Counseling Report or Form 343, Remedial Training Request

During the Presentation Meeting, the employee is presented with MNPD Form 311 or 343; circumstances will be reviewed and discussed, and the accused employee will sign and date/time the form. The form will be processed according to established procedure. With the approval of the Precinct/Division Commander (or Civilian Equivalent), this meeting may be conducted by the immediate supervisor of the affected employee.

D. Presentation Meeting: MNPD Form 313A, Corrective Action/Counseling Form

1. During the Presentation Meeting, when the employee is presented with MNPD Form 313A, circumstances will be reviewed and discussed, and the accused employee will sign and date/time the form. The form will be processed according to established

procedure. Resolution of the corrective action will not be complete and final until the Chief of Police has approved the MNP Form 313A.

2. The employee signature is required; however the employee may note any disagreement and attach a separate statement if he/she chooses.
3. An employee, who refuses to comply with instructions regarding completion of the applicable portions of the form, will receive a direct instruction from an authoritative source to comply. A subsequent refusal may result in a separate corrective or disciplinary action for failure to comply with instructions from an authoritative source.

E. Presenting the MNP Form 313, Internal Disciplinary Resolution Form

1. The preference is for as many cases as possible to be resolved at the Presentation Meeting or Settlement Meeting without a formal hearing. It is clearly beneficial to all parties involved to resolve these complaints as quickly as is possible, without sacrificing the goals of the corrective action or disciplinary process or a fair process for the employee.
2. The supervisor initiating corrective or disciplinary action against an employee shall be responsible for notifying the employee of the act or acts that brought about the action, and the employee's rights under Civil Service Rules, including any right to a departmental hearing.
3. Presentation Meeting: The first meeting after completion of the MNP Form 313. Scheduled by the initiating authority without undue delay and with ample notice to the involved employee to identify and secure the attendance of counsel or employee representative.

When MNP Form 313 is presented to the employee during this Presentation Meeting, the employee has three (3) options.

- a. Immediate Resolution: The employee may elect to immediately accept responsibility for the sustained allegations and accept the recommended sanction based upon a proper application of the grid. The employee will check the box on MNP Form 313 indicating "accept responsibility for actions", and check the box indicating "agree" with the recommended discipline, thereby waiving the right to a formal disciplinary hearing and any appeal

and the MNPD Form 313 will be processed through the chain of command.

- 1) Reflection Period: The employee may elect to have a period of reflection where the employee has up to ten (10) calendar days to consider the findings and recommended sanction. When an employee makes this selection, the Precinct/Division Commander (or Civilian Equivalent) will have the employee sign an acknowledgement that documents their receipt of the MNPD Form 313 copy and their obligations during this ten (10) calendar day reflection period.
 - 2) Prior to the conclusion of the Presentation Meeting, a follow-up Settlement Meeting will be scheduled for the tenth (10th) day (or as close thereto as practical without exceeding ten (10) calendar days) for final resolution.
 - 3) If an employee does not make a selection at or before the tenth (10th) day appointment, the employee will be deemed to have selected a disciplinary hearing and the matters pending shall be referred to a departmental hearing consistent with provisions herein.
 - 4) At any point during prior to or at the tenth (10th) day appointment, the matter may be resolved by settlement agreement.
 - 5) During the time up to the scheduled Settlement Meeting, the employee shall consider the settlement proposal and be prepared to discuss the recommended sanction, and the employee should be prepared to make a decision. The employee should also secure the advice or attendance of any employee representative or counsel, however, the availability of an employee representative or counsel should not be cause to unreasonably delay any meeting.
- c. At any point during the Presentation Meeting process or Reflection Period, the employee may request a departmental hearing consistent with the provisions herein.
4. Settlement Meeting: During this Settlement Meeting (second meeting) following the Presentation Meeting (first meeting) and Reflection Period, the accused employee and/or their representative can again negotiate the recommended sanction. The Settlement Meeting is scheduled at the Presentation Meeting

and occurs on or before the tenth (10th) day from the Presentation Meeting.

- a. During this meeting (Settlement Meeting), the accused employee and/or their representative can negotiate the recommended sanction. Every effort should be made by the employee and the accused employee's supervisor to negotiate a settlement. The intention of the sanction is to not punish the employee for the behavior, but to correct the behavior so that it does not occur in the future. Cooperation from both parties is essential for the effectiveness of the Disciplinary/Corrective Action Grid process.
 - b. At the conclusion of the Settlement Meeting, the available results are:
 - 1) The employee accepts responsibility and the negotiated settlement. The employee and Division Commander (or Civilian Equivalent) signs the MNPD Form 313 indicating resolution.
 - 2) The employee is unable to reach a conclusion that he/she accepts responsibility for the sustained allegation(s) and/or does not agree with the sanction determined through the discipline grid. The applicable boxes on the MNPD Form 313 will be marked. The employee will also be required to indicate that he/she desires that the matter be resolved by a disciplinary hearing and an appropriate hearing type selected. The completed MNPD 313 form will be processed through the chain of command. The accused employee's supervisor should indicate on the MNPD Form 313 that an agreement could not be reached and the reason for the impasse.
5. The Settlement Meeting will be the final meeting. The accused employee will not be allowed a third opportunity to consider the sustained allegations. If the accused employee is unable to reach a conclusion that he/she accepts responsibility for the sustained allegation(s) after Presentation Meeting, the Reflection Period, and Settlement Meeting (or does not agree with the sanction determined through the discipline grid), the applicable boxes on the MNPD Form 313 will be marked to indicate referral to a Disciplinary hearing consistent with the provisions herein for a disciplinary Advisory Panel hearing. The completed MNPD 313 form will be processed through the chain of command. The accused employee's supervisor should indicate on the MNPD Form 313 that

an agreement could not be reached and the reason for the impasse.

6. An employee, who refuses to comply with instructions regarding completion of the applicable portions of the form, will receive a direct instruction from an authoritative source to comply. A subsequent refusal may result in a separate corrective or disciplinary action for failure to comply with instructions from an authoritative source. A refusal to sign the MNP Form 313, or make any of the selections required, will be processed as if the employee indicated "Not Guilty" and disagreed with the recommended action and requested a formal hearing. If such refusal should occur, the presenting supervisor shall document such actions by the employee in an attachment to the MNP Form 313.
7. If the accused employee requests a hearing before the Precinct/Division Commander, he/she shall indicate that request on the MNP Form 313 by checking the appropriate box. Such request will be subject to approval of the Chief of Police and will require the employee to sign a written agreement to waive their right to a hearing with the Chief of Police and any appeals under Civil Service Rules and Policies.
8. If the accused employee requests a hearing before the Chief of Police he/she shall indicate that request on the MNP Form 313 by checking the appropriate box.
9. Unless an employee specifically requests a hearing before the Precinct/Division Commander or Director, or the Chief of Police, and such request is approved, a disciplinary advisory panel shall be convened.
10. At any point during the presentation or settlement process, the employee is may present exonerating or exculpatory evidence to the Division Commander (or Civilian Equivalent) for consideration.
11. **No recommendation or settlement prescribed on the MNP Form 313 shall be complete until approved and final by the Chief of Police.**

4.10.160 Pre-Investigation Settlement Agreement Process

- A. Settlement meetings and negotiations may be conducted on initiated investigations. If an agreement is reached, the responsible authority

will complete the 313 and forward it to the employee's Precinct/Division Commander or Director.

- B. Once an employee is notified of an allegation of misconduct, that if proven true would be a violation of policies, procedures, or rules of the Metropolitan Government subjecting that employee to disciplinary or corrective action, and the employee wishes to fully and completely acknowledge that behavior, the Settlement Agreement process can be utilized to settle the matter without an investigation.
1. A complaint is received by OPA or the employee's supervisor and a determination is made that:
 - a. The complaint is against a member of the MNP, and
 - b. The allegations, if true, would constitute a violation of policies, procedures, or rules of the Metropolitan Government.
 2. Once the determination has been made that the violation meets the above criteria, under normal circumstances the employee will be notified within ten (10) calendar days of receipt of the complaint, but the notification timeframe may vary depending on the type of investigation. The employee may admit culpability on the referenced complaint, and no further investigation will be necessary. The employee may also obtain a representative to participate in further discussion on the matter.
 3. The settlement agreement process combines an agreement between an employee, an employee's representative (if requested), and the employer. No single entity can drive this process - it requires the cooperation of all parties. An employee may waive representation and enter into a disciplinary agreement with the department. Employees will not be permitted to unreasonably delay resolution by use of multiple representatives or multiple successive representatives.
 4. In order to ensure consistency and fairness in the settlement process, the Director of OPA, or designee, shall be notified of all settlement negotiations. Where the proposed sanction is not already agreed upon, or one or more of the parties involved feel OPA could offer assistance in reaching an agreement, OPA shall be required to participate in the settlement negotiations.
 5. When confidentiality of a complaint is required to assure the integrity of an on-going investigation and prior to complaint resolution, the employee and/or his/her representative may be

instructed to maintain the confidentiality of the complaint or the investigation. Failure to follow such instruction from an authoritative source shall be grounds for disciplinary action. Nothing herein shall preclude an employee from seeking appropriate representation or legal counsel.

6. Notification of the employee and/or representative may be delayed until an investigation is complete if the behavior described in the complaint constitutes serious or criminal misconduct, or the ability to investigate the allegations would be severely impaired by the disclosure of the investigation.
7. The OPA Director, designee, or the employee's supervisor will inform the employee and/or representative of the allegations against the employee. A notified representative will be given a reasonable opportunity to contact the accused employee.
8. After discussion with the accused employee, the representative or employee may inquire from the negotiating/charging authority (generally the employee's Precinct/Division Commander, Director, or OPA investigator) what the likely sanction will be if the misconduct is admitted.
9. The responsible/charging authority will consult with the appropriate chain of command and determine what level of sanction would be imposed against the employee if he/she were to admit misconduct using the Disciplinary / Corrective Action Grid.
10. The responsible/charging authority will then notify the employee and/or their representative to discuss and negotiate an appropriate disposition.
11. If the parties agree on the sanction and the charges, the case may be resolved without conducting a formal investigation into the allegations.
12. A Settlement Agreement and/or Complaint Resolution can occur at any point between the receipt of the complaint and before the conclusion of a Disciplinary Hearing Advisory panel.
13. The Settlement Agreement process cannot be used, or function, without the complete and unwavering truthful admission of the employee. Employees must be truthful concerning all circumstances surrounding the complaint. An employee's admission concerning the complaint will not preclude a complete investigation and/or additional discipline, where indicated by

previously undisclosed circumstances or circumstances unknown at the time of settlement.

14. A full investigation may also be conducted if the OPA Director, or designee, or the employee's supervisor receives any new information regarding the original matter. Under such circumstances, there is no requirement that the employee be notified within ten (10) calendar days.

15. Upon admission of misconduct, through written waiver and agreement of all parties, there will be no departmental or civil service appeal of the agreed sanction.

C. Resolution Disagreement

If the accused employee has agreed to accept responsibility for their behavior but is "disagreeing" only with the extent of discipline requested, every effort should be taken at each stage of the "reviewing chain of command" to resolve the disagreement without a formal hearing. Resolution may occur up through the chain of command up to and including Deputy Chief. However, if an acceptable resolution cannot be agreed upon, the case shall be set for a formal hearing. The Disciplinary/Corrective Action Grid will be used at the completion of a hearing to determine the appropriate outcome.

D. Corrective Action

1. Corrective action may be initiated by supervisors against employees not directly subordinate to them by providing a written report of the incident to the employee's immediate supervisor.
2. When corrective action is taken, the facts and circumstances that necessitated the action shall be prepared in writing by the corrected employee's supervisor using the Counseling/Corrective Action Report (MNP Form 313A). An oral or written reprimand initiated by a supervisor is subject to approval of his/her chain of command. If the Deputy Chief (or civilian equivalent) does not approve the action taken, no record of the incident shall be made and those involved will be notified. If the action is approved, a copy of the written reprimand or notation of an oral reprimand will be placed in the employee's personnel file and maintained in accordance with Civil Service Rules.
3. An employee who has corrective action taken against him/her may state their version of the incident in writing and have it maintained with the original MNP Form 313A.

4. No record of corrective action involving oral or written reprimands, or an employee's response, shall be removed, destroyed, altered, or otherwise tampered with except by the authority of the Civil Service Commission.
5. Any employee having corrective action taken against him/her should interpret the action as a formal censure of their conduct or performance and as a prelude to disciplinary action if appropriate adjustments in conduct are not made.
6. If the situation has not changed after the corrective action has been taken, any further neglect, inability or failure of an employee to appear, act, or perform as instructed or required may constitute grounds for disciplinary action.
7. All charges related to a single incident shall be included in one filing of charges-i.e., if a reprimand is recommended in addition to a suspension, it should be approved at the same time as the 313 OR if a hearing is requested on the 313, approval of the 313A by executive staff should occur AFTER the hearing - essentially, they should not be separated in time or place.

4.10.170 Disciplinary Action

- A. General provisions regarding the types of disciplinary action authorized, the grounds for such action, and other procedures to be followed regarding a hearing, appeal, or other related matters are provided in Civil Service Rules. Although these rules stipulate that disciplinary action is to be recommended by an employee's supervisor, it does not prohibit any supervisor from recommending the type of action to be taken against another employee to the employee's supervisor. This is done by submitting a written recommendation to the employee's supervisor for him/her to investigate and prepare appropriate paperwork.
- B. Although subordinate command and supervisory employees may recommend any authorized corrective / disciplinary action (using the Disciplinary / Corrective Action Grid), resolution of the corrective / disciplinary action will not be complete and final until the Chief of Police has approved the MNPD Form 313.
- C. Since the Chief of Police cannot oversee all employees, subordinate command and supervisory employees shall be delegated limited authority to initiate summary action, along with a recommendation at anytime there is sufficient reason to believe that an employee's continued presence on the job may be detrimental to the integrity of

the department or to anyone's safety and welfare. Whenever such employee acts pursuant to limited authority, their actions are subject to review and approval by higher authority. The specifics of the circumstances that necessitated the action shall be set forth in writing by the initiating authority and forwarded through the chain of command without undue delay.

- D. An employee having disciplinary action initiated against him/her may request a departmental hearing in order to state their version of the incident, which are both an administrative and a name clearing hearing. A departmental hearing is a "meeting for the purpose of explaining the departments' evidence against the employee, and allowing the employee or his/her representative to present his/her side of the story regarding the disciplinary action under consideration."³
- E. Employees whose disciplinary action has been approved by the Chief of Police and was not an agreed upon sanction before a disciplinary hearing, may appeal in writing to the Civil Service Commission. The appeal must be made within fifteen (15) calendar days. Any settlement reached before a disciplinary hearing shall include a waiver signed by both parties to not appeal the agreed sanction.
- F. The employee must be notified in writing of the action taken within ten (10) calendar days, and this notice must also advise the employee that within ten (10) calendar days, he/she may request a meeting with the Chief of Police, to provide additional evidence not known or available at the time of the hearing. An employee requesting such meeting must do so in writing and must specify in the request what additional evidence may be brought forth.
- G. A copy of any disciplinary action taken shall be placed in the employee's personnel file maintained by the police department. It shall be processed and maintained in accordance with Civil Service Rules.
- H. No reports or records of disciplinary actions shall be removed, destroyed, altered, or otherwise tampered with, except by authority of the Rules of the Civil Service Commission.

4.10.180 Official Reprimand

In the interest of progressive discipline and corrective action procedures, the Chief of Police may issue an official reprimand. Such reprimand may be oral or written in nature, and will remain as an active part of the employee's departmental personnel file for a period not to exceed one (1) year. While written and oral reprimands are not forms of disciplinary

³ Metro Nashville Civil Service Rules, Section 6.6

action, an employee may state his/her version of the incident in writing and have it attached to, and filed with, the reprimand.

4.10.190 Administrative Leave or Alternate Duty Assignment

A. General Provisions

1. When grounds exist for disciplinary action and/or there is sufficient reason to believe the accused employee's continued presence on the job may be detrimental to the department or the safety of anyone, the initiating authority shall relieve the employee of their duties and cause them to be placed on administrative leave with pay, pending further disposition by higher authority. The equipment of an employee relieved of duty shall be turned in to their supervisor.
2. The initiating authority must document the facts and circumstances supporting the decision to place the employee on administrative leave. Such documentation shall be included with any corrective/disciplinary action taken.
3. In situations wherein it is necessary to relieve a sworn employee of his/her duties, the initiating authority shall take appropriate actions consistent with applicable departmental policy and procedure governing Relief From Duty/Decommission.

B. Special Provisions

When administrative leave for disciplinary purposes has been initiated by someone other than the accused employee's supervisor, the employee initiating the action shall determine the identity of the accused employee's supervisor and notify him/her as soon as possible. The accused employee's supervisor shall respond appropriately and assume their responsibilities. Failure by the notified supervisor to act promptly shall be grounds for disciplinary action.

4.10.200 Suspensions

- A. When a supervisory employee of the department files a complaint against an employee, the supervisory employee may recommend to its chain of command that the accused employee be suspended, using the Disciplinary / Corrective Action Grid to determine the range and the specific sanction. Resolution of the disciplinary action will not be complete and final until the Chief of Police has approved the MNPD Form 313.

- B. The Chief of Police is authorized, subject to review by the Civil Service Commission, to impose an accumulation of thirty (30) days suspension during a twelve-month period.
- C. Upon mutual agreement by the Chief of Police and a disciplined employee, suspensions of up to five (5) days may be deducted from the employee's accrued vacation leave. This action cannot be delayed for the convenience of the employee. A suspension of six (6) or more days cannot be considered for such action either in part or total. Notifications of the action shall be made by the Office of the Chief of Police in order to facilitate all record keeping requirements affected by the action.

4.10.210 Demotions

- A. Demotion is defined as a regular or temporary change of classification and/or compensation of an employee as a result of disciplinary action from a position in one class to a position in another class having less responsibility and a lower level of compensation or a reduction in salary to a lower step in the same classification.
- B. When a supervisory employee files a complaint against an employee, the supervisory employee may recommend that the accused employee be demoted as a means of effectively resolving the complaint. The recommendation may be considered by the reviewing authority, which may support or amend the recommendation. Actual demotion of an employee shall be determined by the Chief of Police and is subject to review by the Civil Service Commission.
- C. Any demotion must clearly state that the employee is being removed from one classification and being placed in another classification, and must be supported by the preponderance of evidence in a disciplinary hearing, or in the event of a settlement agreement, agreed to by the employee.

4.10.220 Dismissals

- A. When a supervisory employee files a complaint against an employee, the supervisory employee may recommend that the accused employee be dismissed as a means of effectively resolving the complaint. The recommendation may be considered by the reviewing authority, which may support or amend the recommendation. Actual dismissal of an employee shall be determined by the Chief of Police or his designee, pursuant to applicable procedures and is subject to review by the Civil Service Commission.

- B. Any dismissal must clearly state that the employee is being separated from the department payroll and must be supported by the preponderance of evidence in a disciplinary hearing.
- C. Employees that are not in a probationary status shall be provided the following information in their letter of dismissal:
 - 1. Reason for dismissal;
 - 2. Effective date of the dismissal; and
 - 3. Status of fringe and retirement benefits after dismissal.

4.10.230 Hearing Procedures

- A. The case hearing officer shall ensure that each employee appearing before a Disciplinary Advisory Panel, Chief of Police or Commander Hearing receives just and equitable treatment. The hearing officer shall also conduct each hearing as an official proceeding with observance of all applicable provisions. It shall be the responsibility of the hearing officer to ensure that all applicable violations are placed into consideration at the hearing so as to ensure that employees are sanctioned on those charges that appropriately and adequately address the misconduct.
- B. An employee receiving written notification of a disciplinary hearing (whether an Advisory Panel, Commander, or Chief of Police Hearing) shall be provided a minimum of ten (10) calendar days to prepare for the hearing, and/or review the investigation file and physical evidence (if requested) supporting the departmental charges against him/her.
 - 1. The employee may waive the ten (10) day minimum rule.
 - 2. The Chief of Police or designee may grant a continuance of the disciplinary hearing for up to an additional ten (10) calendar days.
- C. Generally, a hearing shall proceed as follows:
 - 1. The hearing officer, or the Department Advocate, shall present the circumstances of the complaint and/or charges to all in attendance;
 - 2. The accused employee shall then enter a plea of guilty or not guilty for each charge;
 - 3. The level of proof for all disciplinary hearings shall be the preponderance of evidence;

4. In a Commander Hearing, a waiver shall be obtained from the accused employee wherein the employee waives the right to a hearing with the Disciplinary Advisory Panel or the Chief of Police and appeal to the Civil Service Commission;
 5. The accused employee may then introduce evidence for consideration as to the guilt or non-guilt, and provide testimony regarding the incident;
 6. The accused employee, complainant, and any witnesses may be questioned by the hearing officer, a member of the Advisory Panel, and any other person authorized by the hearing officer. Questioning may be allowed by the accused employee and/or his/her attorney, or as determined by the hearing officer;
 7. A person with the most information regarding the departmental charges on the employee should also attend the hearing;
 8. Upon completion of the presentation of all relevant information, the hearing officer shall excuse the accused employee, the complainant, and any witnesses and the Advisory Panel shall begin discussions regarding their recommendations;
 9. Authorized parties will then make recommendations regarding the departmental charges on the accused employee and any corrective/ disciplinary action deemed necessary for each charge. When more than one employee is charged in the complaint, the circumstances of each employee's involvement will be considered separately;
 10. The accused employee, representative, and other personnel in attendance shall then be readmitted to the hearing. The hearing officer shall inform the accused of the findings on each charge.
- D. The hearing officer shall ensure that each hearing is properly documented (audio and video) and maintained to best satisfy requirements of Civil Service Rules. A record of the hearing and any disciplinary action imposed shall be maintained in accordance with the Civil Service Rules and provisions set forth by the Personnel Department of the Metropolitan Government.
- E. If new or additional misconduct is discovered or admitted during the hearing which may indicate that additional charges are likely or when the hearing officer determines that the conduct is inappropriately charged based upon the evidence presented, the hearing officer

should stop the proceeding and inform the accused employee and their representative. The hearing may be continued until such new or additional information is fully investigated or charged offenses evaluated in light of the new information. The accused employee may also request a reasonable continuance to prepare for the new or additional charges. When such circumstances occur, the hearing should not proceed unless an appropriate waiver by the accused employee and their representative is obtained.

- F. Employees charged with departmental violations are prohibited from possessing any weapon during a hearing conducted pursuant to this policy. Charged employees who are attending such hearings shall secure all weapons and/or gun belts in a secure manner. The attending immediate supervisor of the charged employee will be responsible for verifying that the employee does not possess any weapon(s), and/or has secured the weapon(s) before entering the hearing.
- G. An employee directed to attend a formal interview or other investigative event may, with proper notice, be prohibited from possessing any weapon and shall secure any weapon(s) before entering the facility where such interview or investigative event may be conducted.

4.10.240 Case Hearing Officer

- A. In Disciplinary Advisory Panel Hearings the case hearing officer will be appointed by the Chief of Police or designee from available supervisory personnel. The hearing officer will be appointed when the completed and executed MNPD Form 313 is returned to the Office of the Chief of Police.
- B. The accused employee's Division Commander, or designee approved by the Bureau Commander, will serve as case hearing officer for Commander Hearings.

4.10.250 Commander Hearings

With approval of the Chief of Police, in matters of disciplinary action when a complaint is sustained, the accused employee may request to be heard by his or her Precinct/Division Commander or Director (Commander Hearing). A Commander Hearing will be in lieu of a departmental hearing before the Chief of Police or Disciplinary Advisory Panel.

- A. Commander Hearings may only be held for category F through C violations of policies, procedures, and rules of Metropolitan Government of Nashville and Davidson County.

- B. Commander Hearings will not replace the complaint resolution process through settlement agreement as provided herein.
- C. Findings of Commander Hearings must be approved by the appropriate chain of command and the Chief of Police.
- D. Commander Hearings shall be conducted according to established procedure outlined in Article 4.10.230.
- E. The Chief of Police may direct that a Commander Hearing be conducted for a specific complaint. However, this would not preclude an accused employee from requesting a hearing before the Chief of Police or the Disciplinary Advisory Panel in lieu of the Commander Hearing.
- F. Any employee requesting and receiving a Commander Hearing must waive the right to a hearing with the Disciplinary Advisory Panel or the Chief of Police, and any appeals provided for in the Civil Service Rules and Policies of Metropolitan Government of Nashville and Davidson County.

4.10.260 Disciplinary Advisory Panel

- A. Upon request of an employee who may be disciplined, the Chief of Police or designee shall impanel other employees of the department and, if necessary, members of the Legal Department, to act with him/her in conducting a departmental hearing.
- B. The Disciplinary Advisory Panel shall consist of at least six (6) members in addition to the hearing officer, who will be the Chief of Police or designee. Any Department Advocate or representative of the Legal Department requested to attend shall not be included in this configuration. The membership of the Advisory Panel shall be representative of all elements, ranks, and classified positions of the department.
- C. When the accused employee is a sworn member, the membership of the Advisory Panel shall consist of all sworn employees, with each holding a rank equal or superior to that of the accused employee.
- D. When the accused employee is a civilian, the membership of the Advisory Panel shall consist of civilian employees, each having a classification and Standard Range pay scale equal or superior to that of the accused employee.

- E. The case hearing officer shall announce as part of the proceedings, the name, title and purpose for each person present during the hearing. The hearing officer shall also announce the status of each person present and their role at the hearing.
- F. The Advisory Panel shall thoroughly review each charge in accordance with these and other applicable provisions, and shall present their recommendations to the Hearing Officer. The panel's recommendations shall be presented in two parts:
 - 1. Whether the charge was sustained, and
 - 2. If sustained, the panel's recommended sanction.
- G. The hearing officer shall consider any recommendations made by the advisory panel and make a determination as to whether each charge has been sustained or not sustained and make a determination as to the appropriate sanction.

4.10.270 Chief of Police Hearing

The Chief of Police Hearing is considered an Appointing Authority Hearing under Civil Service Rules and conducted consistent with established policy and procedure. The hearing officer will be the Chief of Police or designee.

4.10.280 Authority of the Chief of Police

Because no policy can anticipate all possible circumstances, instances may arise where the Chief of Police may find it necessary and appropriate to impose a sanction not recommended by the Disciplinary/Corrective Action Grid.

A. Last Chance Agreements

- 1. Under extraordinary circumstances, if the disciplinary infraction is a significant offense, eligible for punishment under categories A or B of the Disciplinary/ Corrective Action Grid, the Deputy Chief/Case Hearing Officer may consider a Last Chance Agreement in lieu of termination. The Deputy Chief/Case Hearing Officer shall only exercise such option when it reasonably appears that the employee is salvageable and said agreement is in the best interest of the department. Any Last Chance Agreement must be approved by the Chief of Police.

2. The terms of a Last Chance Agreement shall include a suspension of up to thirty (30) working days, and a probationary period to be determined by the Chief of Police. The Last Chance agreement may also include a temporary or permanent demotion. The employee shall further agree that if he/she commits any other sustained disciplinary infraction during the time of the probationary period, he/she will be automatically terminated. The employee shall further waive all appeal rights concerning the determination and the offense identified in the Last Chance Agreement.

B. Authority to Impose Sanctions Outside Recommendations of the Disciplinary/Corrective Action Grid

Departure from the recommendations of the grid may include imposing disciplinary action necessary and/or appropriate without regard to the retention period or the category or categories of the prior offense(s) involved. Such departure shall be limited to any situation wherein any employee is charged with a significant offense. The employees work history shall also be taken into consideration. Written notice for the recommendation of the departure from the Disciplinary/Corrective Action Grid shall be made to the employee and will include clear and articulable facts and circumstances for the departure. The authority to impose a sanction not prescribed within the Disciplinary/Corrective Action Grid shall be within the sole discretion of the Chief of Police. The decision to impose a sanction not recommended by the Disciplinary/Corrective Action Grid shall not be subject to appeal or objection.

4.10.290 Appeals

General provisions regarding an appeal of a disciplinary action imposed against any employee of the Metropolitan Government are provided in the Rules of the Civil Service Commission.

4.10.300 Disciplinary/Corrective Action Grid Chart

Offense Category	Retention Period of Offense	1st Offense	2nd Offense	3rd Offense
AA		Dismissal		
Category A	60 Months	20 Day Suspension to Dismissal and /or Demotion	30 Working Day Suspension to Dismissal and/or Demotion	Demotion or Dismissal
Category B	60 Months	8-13 Day Suspension	14-19 Day Suspension and/or Demotion	20 Day Suspension and/or Demotion or Dismissal
Category C	48 Months	2-6 Day Suspension	5-10 Day Suspension	9-15 Day Suspension
Category D	36 Months	1-4 Day Suspension	3-7 Day Suspension	5-10 Day Suspension
Category E	24 Months	Written Reprimand to 2 Day Suspension	1 to 3 Day Suspension	2-5 Day Suspension
Category F	24 Months	Formal Counseling or Oral Reprimand	Written Reprimand to 2 Day Suspension	1-3 Day Suspension