

OFFICE OF THE CHIEF OF POLICE

ADMINISTRATIVE ORDER NO. 3

March 12, 2021

SUBJECT: TEMPORARY RELIEF FROM DUTY OR RESTORATION – EXECUTION OF ORDER; SUMMARY SUSPENSION OF OFFICERS – EXECUTION OF ORDER; AND, SUSPENSION OR DISCHARGE OF CIVILIAN EMPLOYEES – EXECUTION OF ORDER – REVISED

PURPOSE: The purpose of this Order is to revise Department Manual sections regarding the procedures for the administrative processing of impending and adjudicated employee discipline, consistent with advances in telecommunications.

PROCEDURE:

- I. **TEMPORARY RELIEF FROM DUTY OR RESTORATION – EXECUTION OF ORDER – REVISED.** Department Manual Section 3/845.10, *Temporary Relief from Duty or Restoration – Execution of Order*, has been revised and attached. The revisions are indicated in italics.
- II. **SUMMARY SUSPENSION OF OFFICERS – EXECUTION OF ORDER – REVISED.** Department Manual Section 3/860.10, *Summary Suspension of Officers – Execution of Order*, has been revised and attached. The revisions are indicated in italics.
- III. **SUSPENSION OR DISCHARGE OF CIVILIAN EMPLOYEES – EXECUTION OF ORDER – REVISED.** Department Manual Section 3/860.20, *Suspension or Discharge of Civilian Employees – Execution of Order*, has been revised and attached. The revisions are indicated in italics.

AUDIT RESPONSIBILITY: The Commanding Officer, Audit Division, shall review this directive and determine whether an audit or inspection shall be conducted in accordance with Department Manual Section 0/080.30.



MICHEL R. MOORE
Chief of Police

Attachment

DISTRIBUTION "D"

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845. TEMPORARY RELIEF FROM DUTY OR RESTORATION – OFFICERS

845.10 TEMPORARY RELIEF FROM DUTY OR RESTORATION – EXECUTION OF ORDER. When so directed by the Chief of Police, the Commanding Officer, *Professional Standards Bureau*, shall cause a Complaint and Relief From Duty, Suspension, or Demotion, Form 01.61.00, to be prepared and served upon the sworn employee. Such relief from duty shall continue in effect pending a restoration by the Chief of Police or a decision before a Board of Rights.

Any officer ordered to, or requesting a hearing before, a Board of Rights may be temporarily relieved from duty by the Chief of Police pending a hearing before, and a decision by, the Board. The Chief of Police also has the authority to cancel such relief from duty or following relief from duty, restore the officer to duty with or without restrictions pending the hearing.

Note: The cancellation of a temporary relief from duty means the employee is charged with misconduct pending an application for and hearing by a Board of Rights but is not temporarily relieved from duty pending the hearing.

Cancellation of a temporary relief from duty is shown on the Complaint and Relief from Duty, Suspension or Demotion, Form 01.61.00 as, "Do not relieve you from duty."

Penalty Imposed When An Officer Fails to Appear. Suspension, demotion in rank, suspension and demotion in rank, or removal are penalties the Chief of Police may impose if an officer fails to appear at a Board of Rights hearing.

Sworn Probationary Employees. When directed by the Chief of Police, the Commanding Officer, *Professional Standards Bureau*, shall cause the Notice of Termination or Suspension of Sworn Probationary Employee, Form 01.61.01, to be prepared and served upon the probationary employee. All appeal rights for sworn probationary employees are detailed in City Charter Volume II, Article X, Section 1011 (a) and Government Code Section 3300 et seq., the Public Safety Officers Procedural Bill of Rights Act.

Return of Disciplinary Forms - Execution of Order. Following service upon the employee, the completed Complaint and Relief From Duty, Suspension, or Demotion, Form 01.61.00; Notice of Termination or Suspension of Sworn Probationary Employee, Form 01.61.01; or Notice of Discharge, Suspension or Probationary Termination, Form General 77, may be transmitted immediately via *either electronic mail (email) or facsimile machine (FAX)* to the Advocate Section, *Professional Standards Bureau*, **OR** hand delivered to the Advocate Section no later than 0900 hours of the following weekday, excluding holidays.

Note: The "Certificate of Service" section must be completed and the commencement or effective date of any suspension, relief from duty, or discharge **must be included** on the *email or FAX* copy or it will not be accepted as documentation of service. These documents are to be treated as confidential and should not be left exposed or placed in a location where they could be viewed by non-authorized employees.

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When *email* or the FAX system is used, the original completed form shall be mailed or hand delivered to the Advocate Section within two calendar days. Any applicable Intradepartmental Correspondence, Form 15.02.00, that documents the actual suspension or discharge dates, shall be returned simultaneously.

860. SUSPENSION – PROCEDURE.

860.10 SUMMARY SUSPENSION OF OFFICERS – EXECUTION OF ORDER. When so directed by the Chief of Police, the Commanding Officer, *Professional Standards Bureau*, shall cause a Complaint and Relief from Duty, Suspension or Demotion, Form 01.61.00, to be prepared and served upon the sworn employee.

The sworn employee may demand a hearing before a Board of Rights.

A Board of Rights must convene within a period of 10 to 30 days.

Officers May Be Disqualified as Members of a Board. The Chief of Police may declare specific officers of the rank of captain or above as disqualified for a Board of Rights. The reasons for such disqualifications are sick/IOD (including restricted duty not compatible with participating in a Board of Rights hearing), vacation, previously approved absence from command, member of a Board of Rights hearing scheduled for the same date(s) or conflict with a primary duty assignment which has significant importance to Department operations.

Individual Board Members May Demand Subpoenas. Any Board member may demand that the City Clerk issue subpoenas to compel the attendance of witnesses and/or the production of evidence.

Suspension and/or Demotion Appealed to a Board is Stayed. A suspension and/or demotion appealed to a Board of Rights is automatically stayed pending the hearing and decision by the Board.

Note: A Summary Suspension may be imposed for any period of time not to exceed thirty days, with total loss of pay for that period. A total period of thirty days with loss of pay is deemed to mean twenty-two working days.

A Summary Suspension shall be served in the following manner:

- The Complaint and Relief from Duty, Suspension or Demotion, Form 01.61.00, shall be signed by the Chief of Police and shall include the charges and other details, with the exception of the commencement date of the suspension;
- The officer executing the order shall fix the commencement date of the suspension as determined by the Chief of Police. This date shall be placed on all four copies of Complaint and Relief from Duty, Suspension or Demotion, Form 01.61.00;

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- The officer executing the order shall have the accused officer read the charges. The order shall then be executed;
- The "Certificate of Service" sections on all copies of the Complaint and Relief from Duty, Suspension or Demotion, Form 01.61.00, shall be completed by the officer executing the order; *and*,
- When a Complaint and Relief from Duty, Suspension or Demotion, Form 01.61.00, is served, the accused officer shall, at the discretion of the Chief of Police, surrender his or her gun, badge, and identification card for safekeeping immediately upon such relief or suspension from duty.

The remaining copies of the Complaint and Relief from Duty, Suspension or Demotion, Form 01.61.00, may be transmitted immediately via *either electronic mail (email) or facsimile machine (FAX)* to the Advocate Section, *Professional Standards Bureau*, **OR** hand delivered to the Advocate Section no later than 0900 hours of the following weekday, excluding holidays.

Note: The "Certificate of Service" section must be completed and the commencement or effective date of any suspension, relief from duty or discharge **shall be included** on the *email or FAX* copy or it will not be accepted as documentation of service. These documents are to be treated as confidential and should not be left exposed or placed in a location where they could be viewed by non-authorized employees.

When the *email or FAX* system is used, the original completed form shall be mailed or hand delivered to the Advocate Section within two calendar days. Any applicable Intradepartmental Correspondence, Form 15.02.00, that documents the actual suspension or discharge dates, shall be returned simultaneously.

Substitute Service. Criteria have been established which allow for service by mail when a copy of any notice, order or process cannot with reasonable diligence be personally served. If a commanding officer is not able to personally serve an officer due to extenuating circumstances, advice on how to proceed shall be obtained from the Advocate Section, *Professional Standards Bureau*.

Effective Date of Demotion and Suspension. The effective date of a suspension and/or demotion shall be as follows:

- **Suspension Not Appealed.** A suspension that has not been appealed to a Board of Rights shall be effective the day following the period during which the suspension could have been appealed to a Board of Rights, or as soon as practicable after that period, in consideration of deployment needs.
- **Suspension Recommended by a Board.** When a suspension is recommended by a Board of Rights and is upheld by the Chief of Police, it shall be imposed as soon as practicable, in consideration of deployment needs. Such suspension shall include those days an officer was relieved from duty **without** pay (TR).

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- **Demotion Not Appealed.** A demotion that has not been appealed to a Board of Rights shall be effective the day following the period during which the demotion could have been appealed to a Board of Rights.
- **Demotion Recommended by a Board.** When a demotion is recommended by a Board of Rights and is upheld by the Chief of Police, it shall be effective upon the filing of the Decision of the Board and Execution of the Order with the Police Commission.

Note: A suspension day shall consist of 8 hours. A suspension period shall not be split (i.e., a portion before or after a period of work), without the approval of the Commanding Officer, *Professional Standards Bureau*.

Sworn Probationary Employees. When so directed by the Chief of Police, the Commanding Officer, *Professional Standards Bureau* shall cause a Notice of Termination or Suspension of Sworn Probationary Employee, Form 01.61.01, to be prepared and served upon the probationary employees.

A Summary Suspension shall be served in the following manner:

- The Notice of Termination or Suspension of Sworn Probationary Employee, Form 01.61.01, shall be signed by the Chief of Police and shall include the charges and other details, with the exception of the commencement date of the suspension;
- The officer executing the order shall fix the commencement date of the suspension as determined by the Chief of Police. This date shall be placed on all five copies of the Notice of Termination or Suspension of Sworn Probationary Employee, Form 01.61.01;
- The officer executing the order shall have the accused probationary employee read the charges. The order shall then be executed;
- The "Certificate of Service" sections on all copies of the Notice of Termination or Suspension of Sworn Probationary Employee, Form 01.61.01, shall be completed by the officer executing the order; *and*,
- The accused probationary sworn employee's gun, badge and identification shall be surrendered for safekeeping, to the officer executing the order of suspension.

The remaining copies of The Notice of Termination or Suspension of Sworn Probationary Employee, Form 01.61.01, may be transmitted immediately via *email or FAX* to the Advocate Section, *Professional Standards Bureau*, **OR** hand delivered to the Advocate Section no later than 0900 hours of the following weekday, excluding holidays.

Note: The "Certificate of Service" section *shall* be completed and the commencement or effective date of any suspension, relief from duty, or discharge **shall be included** on the *email or FAX* copy or it will not be accepted as documentation of service. These documents are to be treated as confidential and should not be left exposed or placed in a location where they could be viewed by non-authorized employees.

When the *email or FAX* system is used, the original completed form shall be mailed or hand delivered to the Advocate Section within two calendar days. Any applicable Intradepartmental

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Correspondence, Form 15.02.00, that documents the actual suspension or discharge dates, shall be returned simultaneously.

860.20 SUSPENSION OR DISCHARGE OF CIVILIAN EMPLOYEES – EXECUTION OF ORDER. When so directed by the Chief of Police, the Commanding Officer, *Professional Standards Bureau*, shall cause a Notice of Discharge or Suspension, Form General 77, to be prepared. The Notice of Discharge or Suspension, Form General 77, shall be *completed* in all cases when a civilian employee is terminated.

There is no time limit on the period that a civilian employee may be suspended.

Note: Any discharge, or any suspension in excess of five working days, may be appealed to the Civil Service Commission.

Commanding Officer's Responsibility. After the Form General 77 is signed by the Chief of Police, the form shall be forwarded via *Professional Standards Bureau* to the employee's commanding officer, who shall:

- Execute the order;
- Complete the portion of the form entitled "Service of Notice;" *and*,
- Give one copy to the concerned employee.

The original and one copy may be transmitted immediately via *either electronic mail (email) or facsimile machine (FAX)* to the Advocate Section, *Professional Standards Bureau*, **OR** hand delivered to the Advocate Section no later than 0900 hours of the following weekday, excluding holidays.

Note: The "Certificate of Service" section *shall* be completed and the commencement or effective date of any suspension, relief from duty, or discharge **shall be included** on the *email or FAX* copy or it will not be accepted as documentation of service. These documents are to be treated as confidential and should not be left exposed or placed in a location where they could be viewed by non-authorized employees.

When *email or* the FAX system is used, the original completed form shall be mailed or hand delivered to the Advocate Section within two calendar days. Any applicable Intradepartmental Correspondence, Form 15.02.00, that documents the actual suspension or discharge dates shall be returned simultaneously.