

GENERAL ORDER CHANGE



Title
**GO-PER-201.22 (Fire and Police
Disciplinary Action Procedure Act of
2004)**

Topic	Series	Number
GOC	05	05

Effective Date
January 9, 2006

DISTRICT OF COLUMBIA

I. REMOVE FROM:

GO-PER-201.22
Pages 3-6

INSERT:

GO-PER-201.22
Page 3-6a (revised 07/19/05)

II. RESCIND: N/A

ADD: N/A

III. NOTES:

1. On Page 4, Section IV, A, 3, the word "not" was added, so the change reads:

"Twenty (20) days are allotted to complete the investigation, **not** to include:"

2. On Page 6, Section IV, A, 14, language was changed from:

"Element-level corrective action is served on an employee, not to include chain of command investigations that require Complaint Summary (CS) numbers, as soon as possible, but not later than 30 days after MPD became aware of the incident."

The new language reads:

"Any element-level corrective action shall be served on an employee as soon as possible, but no later than 30 days after the dereliction took place. This does not include corrective action resulting from Chain of Command investigations that require Compliant Summary (CS) numbers.

Note: Examples of element-level corrective action include, but are not limited to, a PD Form 750 (Dereliction Report) for minor uniform violations such as failure to wear an approved off-duty holster, or failing to wear a helmet on bike patrol."

IV. RESCISSION OF OTHER DOCUMENTS: N/A

//SIGNED//
Charles H. Ramsey
Chief of Police

CHR:SOA:DAH:jah

- H. Due Date – refers to the calendar day upon which an investigation is due as determined by the Assistant Chief, OPR.
- I. Employee – A sworn or civilian employee of the Department.
- J. Formal Grievance
 - 1. A grievance, submitted in writing to an employee's Element Commander, or Director, or the Chief of Police pursuant to the procedures set forth in the Collective Bargaining Agreement (CBA) and General Order 201.3 (Grievance Procedures), by an employee alleging a violation, misapplication, or misinterpretation of the CBA between the MPD and the employee's labor representative. (CALEA 25.1.1)
 - 2. A grievance, submitted in writing, by an employee to an official who is at a higher administrative level than the deciding official on such actions pursuant to the procedures set forth in District of Columbia Personnel Manual, Chapter 16 (General Discipline and Grievances) and General Order 201.3 (Grievance Procedures) and does not involve an alleged violation of the CBA.
- K. Knew or Should Have Known of the Act or Occurrence Allegedly Constituting Cause – The date on which a manager or supervisor becomes aware, or should have known, or an official is notified of the alleged misconduct.
- L. Special Circumstances – Circumstances in which a critical component that is necessary to complete the investigation is not available by the assigned deadline due date to reasons outside of the investigating official's control, i.e. complexity of the case, or availability of a subject employee(s)/critical witness(es).

III. REGULATIONS

- A. No corrective action or adverse action against an employee of the MPD shall be commenced more than 90 days, not to include Saturday, Sunday, or legal holidays, after the date that the MPD knew, or should have known, of the act or occurrence allegedly constituting cause. (CALEA 26.1.1)
- B. In the event that there is an ongoing criminal investigation into the act constituting cause by the MPD, the USAO, or the OAG, or if there is an ongoing investigation by the Office of Police Complaints, the 90-day time period shall be suspended until the conclusion of the investigation.
- C. All Metropolitan Police Department administrative, use of force, misconduct and disciplinary investigations shall be completed within thirty (30) calendar days, with the exception of motor vehicle crash investigations, which must be certified and completed within fifteen (15) calendar days. This includes investigations being conducted by OPR.

- D. All chain of command investigations shall be completed and submitted, through the chain of command, to the Assistant Chief, Office of Professional Responsibility (OPR) by the assigned due date. Element Commanders and Directors may request **ONE** 10-day extension in accordance with the procedures outlined in Section IV.A.4-9, of this order. (CALEA 52.1.4)
- E. All OPR investigations shall be completed and submitted to the Assistant Chief, OPR, by the assigned due date. The Director, Internal Affairs Division, or the Program Manager, Diversity and EEO Compliance Unit, may request **ONE** ten-day extension in accordance with the procedures outlined in Section IV.A.4-9, of this order.
- F. Subsequent requests for an extension, after the initial **ONE** 10-day extension, shall be reviewed and approved on a case-by-case basis by the Assistant Chief, OPR.
- G. Investigation timelines established by the Department to achieve the 90-day requirement are internal guidelines. Failure to meet these timelines shall not be used by employees as a defense against a recommendation for corrective or adverse action.
- H. The 90-day rule in the “Fire and Police Disciplinary Action Procedure Act of 2004,” and the policy and procedures described in this order that relate to that act, shall apply to all sworn and civilian employees of the Department, regardless of their duty status. The 90-day rule does not apply to members of the Reserve Corps.
- I. Any effort to contact employees on administrative sick leave to serve corrective action, or a notice of proposed adverse action, shall be coordinated in consultation with the Director, Medical Services Section, Office of Human Services. The consultation shall not delay service if the 90-day deadline is within three (3) working days.

IV. PROCEDURAL GUIDELINES

- A. Element Commander or Director, whichever is applicable, shall ensure:
 - 1. All chain of command investigations are submitted using the appropriate “template” formats issued by the Assistant Chief, OPR.
 - 2. All chain of command investigations are submitted, through the chain of command, to the Assistant Chief, OPR, by the due date deadline assigned by the Assistant Chief, OPR.
 - 3. Twenty (20) days are allotted to complete the investigation, **not** to include:
 - a. Five (5) days for the Element review, and

- b. Five (5) days for review by the appropriate Assistant Chief or Senior Executive Director.
4. All extension requests are submitted, in writing, to include the specific reason(s) additional time is needed. Extension requests shall also document the original incident intake date and the original due date, as well as any subsequent extensions request that have been approved.

Note: Element Commanders and Directors may request **ONE** 10-day extension for investigations from their respective Assistant Chief or Senior Executive Director.
5. All requests for a 10-day extension are submitted, in writing, to the Assistant Chief or Senior Executive Director at least two (2) days prior to the due date deadline.
6. Request a subsequent extension when special circumstances exist. Examples of special circumstances include:
 - a. **Complexity of the case** - in these circumstances, the written request must include the specific elements of the investigation that will require additional time.
 - b. **Availability of a subject employee(s)/critical witness(es)** - the written request must include the specific reason(s) why the subject employee(s) and/or witness(es) are unavailable, and the specific efforts that have been undertaken thus far to meet with the subject employee(s) and/or witness(es), including dates and times of efforts.
7. All requests for subsequent extensions due to special circumstances are submitted, in writing, through the chain of command, to the Assistant Chief, OPR, at least two (2) days prior to the due date deadline.
8. Subsequent extension requests document the special circumstances, the original incident intake date, the original due date, and all previous extensions that have been granted.
9. Extensions are requested and forwarded in accordance with the procedures outlined in this order any time an investigation will not be submitted to the Assistant Chief, OPR, by the due date deadline, including when an investigation has been returned to the investigating official for further investigation or for administrative corrections.
10. Submit a copy of the discipline imposed for all investigations submitted **AFTER** the due date without the written approval for an extension.

11. A copy of the served corrective action, with the employee's signature, or with the official's documentation that the employee refused to sign, is submitted to OPR, along with the investigation, by the due date deadline assigned by the Assistant Chief, OPR.

Note: Corrective action applies **only** to misconduct investigations that are **not** subject to further review by a Department Review Board (e.g. the Crash Review Board).

12. Corrective action is served to employees as soon as possible, but not later than 90 days after MPD became aware of the incident.
13. Subject employees are interviewed and his/her comments are considered for mitigation in accordance with the procedures outlined in General Order 1202.1 (Disciplinary Procedures and Processes), when an official reprimand or suspension of less than ten days is under consideration. The Element Commander or Director shall attempt to resolve a disciplinary matter after a conference with an affected employee and his/her Labor Union representative (unless representation is voluntarily waived by the employee).
14. Any element-level corrective action shall be served on an employee as soon as possible, but no later than 30 days after the dereliction took place. This does not include corrective action resulting from Chain of Command investigations that require Compliant Summary (CS) numbers.

Note: Examples of element-level corrective action include, but are not limited to, a PD Form 750 (Dereliction Report) for minor uniform violations such as failure to wear an approved off-duty holster, or failing to wear a helmet on bike patrol.

15. A copy of the served element-level corrective action, signed by the employee, or with the official's documentation that the employee refused to sign, is forwarded through the channels to the Director, Disciplinary Review Division, OPR.

B. Assistant Chief or Senior Executive Director, whichever is applicable, shall ensure:

1. All chain of command investigations are submitted using the appropriate "template" formats issued by the Assistant Chief, OPR. Investigations submitted without the approved templates shall be returned from the Assistant Chief, OPR, for correction.
2. All chain of command investigations are completed and submitted to the Assistant Chief, OPR, by the due date deadline assigned by the

Assistant Chief, OPR.

3. Requests for the **ONE** 10-day extension permissible for chain of command investigations submitted by Element Commander and Directors are reviewed and submitted in accordance with Section IV.A.4-5.

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