


# Monroe County Sheriff's Office

## General Order

<b>CHAPTER:</b>	<b>13</b>	<b>TITLE:</b> Disciplinary Procedure & Code of Conduct
<b>EFFECTIVE DATE:</b> May 25, 2009	<b>NO. PAGES:</b> 22	<b>AMENDED:</b>
<b>REFERENCE:</b>	<b>RESCINDS:</b>	
 _____ <b>Sheriff of Monroe County</b>		

### I. PURPOSE

The purpose of this directive is to establish a Code of Conduct for Office Members, and disciplinary procedures.

### II. DISCUSSION

This directive shall apply to all Sheriff's personnel. Members of the Sheriff's Office **both on and off duty**, are expected to abide by, and may be disciplined for violating the Rules and Regulations of the Sheriff's Office up to and including withdrawal of appointment. In recognition of the fact that each instance of misconduct differs from somewhat similar actions in many respects, the Sheriff retains the right to treat each occurrence on an individual basis without creating a precedent for other cases that may arise in the future. The Rules and Regulations in this directive are not to be construed as a limitation upon the Sheriff, but are to be used as a guide. To facilitate portions of this chapter, the Sheriff reserves the right to question persons (including Members) entering and leaving any Sheriff's Office property, and to inspect any person, including Members, lockers, desks, vehicles, packages, handbags, briefcases, lunch boxes or other possessions carried to and from Sheriff's Office property. All or a part of the disciplinary procedure may be superceded by a collective bargaining agreement entered into between the Sheriff and a recognized collective bargaining unit.

(Revised 5/15/2006)

### III. POLICY AND PROCEDURE

It is the policy of the Sheriff that discipline should be characterized as corrective rather than punitive, and that disciplinary actions be utilized as an element of an overall program to educate the Members of the Office and to promote proper conduct. Supervisory Members are expected to enforce the disciplinary process. Although internal consistency in administering discipline is desirable, numerous factors should be considered in determining the appropriate level of discipline to be assessed. Some of the factors involved include, but are not limited to length of service, time intervals between offenses, effectiveness of prior disciplinary actions, willingness to improve, overall work performance, job attitude, and corrective or disciplinary actions previously administered to comparable Members for similar offenses. A repetition of the same offense or other serious offense indicates that more severe disciplinary measures should be administered. Nothing contained herein shall limit the right, power, and authority of the Sheriff to take whatever disciplinary action

deemed appropriate under given circumstances. It is further provided that certain offenses are of such serious nature that immediate withdrawal of appointment is applicable on the first offense.

#### **A. Types of Corrective / Disciplinary Action**

1. Letter of Counseling - The purpose of a letter of counseling is to allow the Supervisor to bring to the Member's attention the need to improve his/her performance, work habits, behavior or attitude and to serve as a notice against further repetition of the unsatisfactory performance or conduct. The Supervisor should utilize the occasion to identify and define the area needing improvement and to inform the Member of how such improvement can be realistically achieved and when it can be expected. A letter of counseling is a corrective measure and is not considered to be disciplinary action.

2. Remedial Training – If the Supervisor has, through counseling, defined the area needing improvement, the Supervisor shall provide qualified instruction to assist employees in overcoming the noted deficiency. This instruction must be appropriate and not detract excessively from other supervisor capacities, the employee may be required to successfully complete a training program. The program shall be designed to fit specific job requirements or individual needs. When possible, the Sheriff's in-service training program should be used. Assignment of the training and completion of training shall be documented by memorandum and filed with the Letter of Counseling.

#### **B. Types of Disciplinary Actions**

1. Disciplinary Written Reprimand - In situations in which counseling and/or remedial training has not resulted in the expected improvement, or in which a Member commits a more serious offense, a written reprimand should be given to the Member. This shall include a complete description of the incident(s) of misconduct, and refer to specific dates, times, locations, personnel involved, and rules violated. Supervisors should refer to Chapter 13 J (Complaints against Members, for specific guidelines on Disciplinary Guidelines.)

2. Disciplinary Relief From Duty - A Supervisor / Director has the authority to relieve from duty a subordinate should the subordinate report for or be on duty in an intoxicated state or otherwise unfit for duty. The Supervisor must immediately report this action to the Supervisor next in his/her chain of command. The incident notification will follow through the chain of command until the Division Commander has been notified.

The Division Commander or the Member's Supervisor shall initiate an investigation of the incident and determine within twenty-four (24) hours whether this relief from duty shall continue, in which case it becomes a suspension with pay. This suspension with pay is to be no more than three (3) days. The Undersheriff shall be notified and will supplement the Division Commander's investigation if necessary.

3. Suspension - In the event offenses are continued or repeated by a member who has already received a letter of counseling / retraining or written reprimand, or if the nature of the offense is relatively serious, a Member may be placed on disciplinary suspension without pay for a period of time (which must be approved by the Sheriff), or be subjected to loss of accrued vacation or compensatory leave.

a. Administrative suspension following use of deadly force - In every instance in which a Deputy uses deadly force **or actions** which results in death or bodily harm to another person, the Deputy will be immediately relieved of normal duties in order that the personal and emotional needs of the Deputy may be addressed and all facts surrounding the incident verified. Administrative suspension will be effected in such circumstances by the Deputy's Division Command, or the duty Commanding Officer, and shall continue until otherwise ordered by the Sheriff. An administrative suspension under these circumstances is not considered to be disciplinary.

b. Disciplinary suspension, demotions, and appointment withdrawals - All Members subjected to disciplinary action will receive a written notice of the sanctions recommended, and the reason(s) for the

discipline. Supporting material as is reasonably available shall be included with the notification to the Member.

4. Disciplinary Demotion - In certain cases, at the option of the Sheriff, demotion may be used when the Member demonstrates an inability to function at his/her rank or position. Disciplinary Demotion may also be used as a position overseer when the rank or position has been abused or handled inappropriately.
5. Disciplinary Withdrawal of Appointment - If a Member's conduct necessitates an inquiry or an investigation, the Member may be placed on paid suspension; depending upon the results of the investigation, the Member's appointment may later be withdrawn.
6. All suspensions without pay, demotions, or withdrawal of appointments must be approved by the Sheriff.
7. **Should the investigation result in the member's dismissal, she/he shall be provided a memorandum indicating the reason(s) for dismissal, effective date of dismissal, and a statement related to the employee's right to submit information to their personnel file to refute or explain the reasons for the dismissal.**

(Effective 06/30/2006)

### **C. Disciplinary Guidelines (Types of Complaints Investigated by Supervisors)**

1. Classification of offenses - Violation of rules and/or procedures shall be classified according to general categories in separate sections of the rules and regulations as follows:
  - a. Insubordination offenses
  - b. Unlawful conduct offenses
  - c. Improper conduct offenses
  - d. Job knowledge and performance
2. Violation of rules - Sheriff's personnel shall not commit any acts or omissions which constitute a violation of any of the rule(s), regulation(s), directive(s), or order(s) of the Sheriff or his Office, whether stated in the General Orders or elsewhere.
3. Disciplinary variance - For each violation, consideration will be given to the severity of the misconduct, the cost involved, the time interval(s) between violations, the length and quality of member's service records, and the ability of the Member concerned.

### **D. Countermanding Rules, Orders, Procedures**

The Sheriff may, at his discretion, authorize suspension of rules, orders, procedures, or directives of the Sheriff's Office when necessary for covert investigation, or to achieve Office objectives. The Undersheriff may suspend or countermand a rule, order, procedure, or directive only when failure to do so would obstruct the achievement of objectives or would otherwise be adverse to the Sheriff's Office. In such cases, written explanation will be immediately forwarded to the Sheriff.

### **E. Insubordination Offenses**

1. **Respect toward superiors** - Sheriff's personnel shall display respect and shall address Supervisors and superior officers by proper rank or title.
2. **Abusiveness** - Sheriff's personnel shall not use abusive language or gestures toward a Supervisor or superior officer of the Sheriff's Office.

3. **Criticism of orders or policies** - Sheriff's personnel shall support the policies, orders, and procedures of the Monroe County Sheriff's Office, and shall not criticize or ridicule the Monroe County Sheriff's Office, its policies, orders, or personnel by speech, writing, or other expression where such interferes with the maintenance of discipline or otherwise undermines the effectiveness of the Sheriff's Office.
4. **Prompt compliance with a lawful order of a superior** - Sheriff's personnel shall promptly execute the lawful orders and/or instructions of a Supervisor or superior officer of the Sheriff's Office, and shall not delay or fail to carry out such orders or instructions.
5. **Compliance with direct order of a superior** - Sheriff's personnel shall comply with the direct orders or instructions given by a Supervisor or superior officer, and shall not refuse to comply when such orders or instructions are lawful and proper.
6. **Compliance with direct order of superior or Internal Affairs Investigator** - Sheriff's personnel shall obey the lawful orders of Internal Affairs Investigators or superior officers to answer questions related to the internal investigation of misconduct.
  - a. Sheriff's personnel who are reasonably suspected of illegal use of, or abuse of, drugs, and/or violation of rules or procedures concerning use of alcohol shall obey orders from Internal Affairs Investigators or superior officers to take chemical tests for alcohol and/or drugs.
  - b. Sheriff's personnel may be ordered to submit to a lineup, breath test, blood test, voice print, polygraph, hand-writing examples, or other tests or examinations.
7. **Concerted job actions** - Sheriff's personnel shall not engage in concerted job actions such as curtailment or restriction of work output, or interfere with work in or about other Sheriff's work stations including, but not limited to, instigating, leading, or participating in any walk-out, strike, sit-down, stand-in, slow-down, refusal to return to duty at the scheduled time, or otherwise instigate, lead, or contribute to job actions which undermine Supervisory authority and which seriously affect discipline, morale, or organizational effectiveness.

#### **F. Neglect of Duty Offenses**

1. **Abuse of rest periods** - Sheriff's personnel shall take only the specified amount of time for meal or rest periods as established by the Rules and Regulations, Operation Procedures, or by a Commanding Officer.
2. **Failure to Appear / Tardiness** - Sheriff's personnel shall promptly report for duty properly prepared at the time and place required by assignments, subpoenas, or orders.
3. **Failure to respond to subpoena due to conflict** - Sheriff's personnel who are unable to respond to a subpoena because of a conflict with another subpoena shall notify either issuing authority of the conflict and gain excuse from one.
4. **Failure to respond to subpoena due to unreported illness** - Sheriff's personnel who are unable to respond to a subpoena because of sickness, injury, or other such causes shall report to the appropriate authority originating the subpoena for purposes of being excused from the subpoena.
5. **Absence from duty (sick leave, emergency leave notification)** - Sheriff's personnel shall report for duty in accordance with their assigned work schedules and shall not be absent from duty without authorization or having made proper notification as follows - Sheriff's personnel who are unable to report for duty due to illness or other emergency shall cause notification of their Supervisor not less than one (1) hour prior to scheduled reporting time whenever possible.

**6. Failure to report for duty to improper conduct** - Sheriff's personnel shall be circumspect in their private activities, and shall not subject themselves to circumstances such that they are unfit or unable to report for duty at the designated time because of illegal, immoral, or improper conduct.

**7. Misuse of sick leave** - Sheriff's personnel shall not feign illness or injury or falsely report themselves ill or injured or otherwise deceive any superior or Supervisor of the Sheriff's Office as to the condition of their health for purposes of avoiding normal duties through use of accumulated sick leave.

Performance of physical income producing or recreational activities while on sick leave shall be prima-facie evidence of sick leave abuse. Sheriff's personnel are expected to remain at their place of residence while on sick leave, or to cause prompt notification of the District or Division Supervisor with a location at which they may be reached. Sheriff's personnel may, however, leave the place of residence for short duration as necessary for obtaining medical aid or assistance, food or sustenance, for performing necessary domestic errands, or exercise of civil rights to vote, travel to or engage in religious pursuits.

**8. Fictitious illness or injury report** - Sheriff's personnel shall not feign illness or injury to deceive any Supervisor of the Sheriff's Office as to the condition of their health for purposes of making a fraudulent claim for insurance, workers' compensation, or disability retirement.

**9. Response to radio calls** - Sheriff's personnel shall respond promptly to radio calls when logged or listed in service with radio communications.

**10. Sheriff's personnel to monitor Sheriff's radio** - Sheriff's personnel shall monitor the Sheriff's radio when operating radio equipped Sheriff's vehicles while on or off-duty.

**11. Sheriff's personnel to render assistance on or off-duty** - Certified deputies shall respond to calls for assistance from citizens and from other Sheriff's personnel and shall take appropriate action in emergencies or criminal occurrences while on or off-duty.

**12. Completion of reports and documents** - Sheriff's personnel shall complete and submit all reports and documents required in the execution of their duties prior to concluding a tour of duty except as authorized by a Supervisor.

**13. Neglect of duty (loafing, inattention to duties / procedures)** - Sheriff's personnel shall be attentive to job duties and shall avoid any appearance of loafing or neglecting work while on-duty. Sheriff's personnel shall adhere to procedures, policies, directives, orders, rules and regulations and shall faithfully execute all of the duties and responsibilities of their assigned position.

**14. Willful violation of official procedures and/or directives (not endangering persons or property)** - Sheriff's personnel shall not willfully ignore or violate official directives, policies, procedures, orders, or Supervisory instructions, or knowingly fail to properly execute the duties and responsibilities of their assigned position.

**15. Horseplay, distraction of others** - Sheriff's personnel shall perform their duties in a conscientious manner and shall not engage in horseplay while on duty or at a Sheriff's Office facility or work station and shall not distract others who are performing assigned duties.

**16. Leaving assigned work area during working hours** - Sheriff's personnel shall remain at or in assigned work areas during working hours unless otherwise authorized by a Supervisor.

**17. Failure to work overtime, special hours** - Sheriff's personnel shall promptly report for duty when assigned to work overtime, special hours, or special shifts.

- 18. Willful neglect of official duties (requires for the safety of persons and property)** - Sheriff's personnel shall be attentive to job duties and shall not violate official directives, Supervisory orders, instructions, procedures, or knowingly refrain or cause another to refrain from the performance of lawful duties required for the safety of the community even when such neglect does not result in immediate danger to life or property.
- 19. Endangering others through neglect of duty** - Certified deputies shall take appropriate action in response to emergency situations where there is a known danger to the lives of others, and in response to serious crimes. Particularly those of a violent nature, which come to their attention while on or off-duty.
- 20. Failure to report accidental injury** - Sheriff's personnel sustaining any personal injury requiring professional medical attention whether sustained on-duty or off-duty shall promptly report the injury to the Supervisor.
- 21. Failure to report a motor vehicle accident** - Sheriff's personnel shall immediately report motor vehicle accidents in which they are involved with a Sheriff's vehicle in accordance with Office directives.
- 22. Failure to report loss of equipment, badge or ID card** - Sheriff's personnel shall immediately report the loss of badge, ID card, or Sheriff's equipment to a Supervisor.
- 23. Citizen complaints to be recorded** - Sheriff's personnel shall courteously and promptly adhere to policies and procedures established for processing citizen complaints.
- 24. Personal dress and grooming while on-duty** - Sheriff's personnel shall maintain a neat and clean appearance in conforming with established grooming and dress requirements.
- 25. Personal neglect** - Sheriff's personnel shall maintain personal body weight in proportion to height in accordance with Office requirements and directive procedures governing personal appearance.
- 26. Notification of correct address and telephone number** - Personnel shall keep their command and Human Resources informed of their correct residential address. Sworn personnel are required to maintain telephone service in the form of service to their permanent residence or cellular service and shall keep their command and Human Resources informed of their correct phone numbers.
- 27. Identification** - Non-uniformed Sheriff's personnel shall wear issued identification cards conspicuously while in or about Sheriff's Office facilities unless exempted by competent authority.
- 28. Identification required** - Certified deputies shall carry their badge and commission (ID card) on their person at all times except when impractical or during hazardous covert assignments. And certified deputies shall identify themselves when taking any police action when not in uniformed.
- 29. Deputies to carry firearms** - Certified law enforcement deputies shall carry on or about their person an approved firearm when on-duty, except when otherwise ordered by competent authority. Certified law enforcement deputies shall carry on or about their person an approved firearm when off-duty and when not made impractical by the nature of their activities (sports, etc.) or while consuming alcoholic beverages.
- 30. Care and maintenance of service weapons** - Certified deputies who are required to carry firearms in the performance of official duties shall maintain such firearms in a clean and serviceable condition, except during actual firearms training.
- 31. Cowardice** - Sheriff's deputies shall perform their required duties and shall not avoid such duties because of fear or cowardice. Sworn deputies are not expected or required to enter imminently hazardous situations without assistance; however, they shall not fail to come to the aid of another Member of the Sheriff's Office who is already engaged in an imminently hazardous situation. Deputies shall respond to

the aid of all persons in danger unless the probability of losing their own life exceeds the probability of successful rescue.

**32. Reading Agency E-Mails - Internal e-mail system is essential to the everyday business of the Agency. It is imperative that all employees completely open and read their e-mails by the end of each shift. Further, when an e-mail has a receipt request tag the employee shall not disable a return receipt being returned to the sender for tracking and accounting purposes.**

(Effective 2-27-2008)

#### **G. Unlawful Conduct Offenses**

Disciplinary measures resulting from unlawful conduct may be imposed independently of, and concurrent with, civil and criminal prosecutions, or internal disciplinary measures may be waived pending civil or criminal disposition. The administration of internal disciplinary measures from unlawful conduct must necessarily depend upon individual case circumstances and will be determined by the Sheriff.

- 1. Non-criminal violations** - Sheriff's personnel shall adhere to all federal, state, and local laws and ordinances including those punishable by no other penalty than a fine, forfeiture, or other civil penalty. (Includes, but is not limited to traffic infractions)
- 2. Second degree misdemeanor without intent** - Sheriff's personnel shall adhere to all federal, state, and local laws and ordinances, exercising caution and judgement in avoiding unintentional commission of crimes defined by Florida Statutes as second degree misdemeanors, whether chargeable or not.
- 3. Second degree misdemeanor with intent** - Sheriff's personnel shall adhere to all federal, state, and local laws, and shall not intentionally commit any act or crime which is defined by Florida Statutes as a second degree misdemeanor, whether chargeable or not, provided that the commission of such act or crime does not bring the Sheriff's Office into disrepute or otherwise impair the efficiency or operation of duties by the personnel concerned.
- 4. First degree misdemeanor not affecting Sheriff's Office** - Sheriff's personnel shall adhere to all federal, state, and local laws, and shall not commit any act or crime which is defined by Florida Statutes as a first degree misdemeanor, whether chargeable or not, provided that the commission of such crime does not bring the Sheriff's Office or its personnel into disrepute or otherwise impair the efficiency or operation of the Sheriff's Office, and adverse effect upon future performance of duties by the personnel concerned appears unlikely.
- 5. Commission of misdemeanors injurious to the Sheriff's Office** - Sheriff's personnel shall adhere to all federal, state, and local laws, and shall not commit any act or crime defined by Florida Statutes as a misdemeanor, first or second degree, whether chargeable or not, which bring discredit upon the Sheriff's Office or otherwise impairs the operation and efficiency of the Sheriff's Office, and/or which is likely to impair the ability of personnel concerned to perform assigned duties.
- 6. Commission of felony** - Sheriff's personnel shall not commit any act or crime defined by state or federal law as a felony, whether chargeable or not.

#### **H. Improper Conduct Offenses**

- 1. Courtesy** - Sheriff's personnel shall be polite and courteous in contacts with the public and with other Sheriff's personnel.
- 2. Home address and home telephone number (confidential)** - Sheriff's personnel shall treat the, home addresses and telephone numbers of sworn Sheriff's personnel as confidential information. Such

information shall be released only when authorized by competent authority, or with consent of the sworn personnel concerned.

- 3. Personal bearing (chewing gum and tobacco)** - Sheriff's personnel shall maintain a professional, business-like appearance while on-duty and/or in uniform. Slouching, leaning against structures, standing with hands in pockets, smoking, or chewing gum or tobacco tend to create an unfavorable public appearance.
- 4. Radio transmissions** - Sheriff's personnel shall use official radio channels in accordance with established procedures, and shall avoid use of sarcastic, impertinent remarks, or other improper radio transmissions.
- 5. Conspicuous display of firearms** - Firearms carried by non- uniformed Sheriff's deputies shall be concealed from public view, and shall be securely holstered or carried in a secure covering, except when engaged in lawful firearms competition, firearms training, inspection, or in accordance with existing directive procedures.
- 6. Neighborhood and or family disputes** - Sheriff's personnel shall avoid personal involvement in neighborhood controversies or family disputes. Such disputes shall be investigated by impartial on-duty officers. Deputies shall not attempt to exercise authority or to make arrest in their own quarrels, but shall contact a superior officer who shall cause the matter to be investigated and action taken by impartial officers having no personal interest in the dispute.
- 7. Identification card to be shown / Name to be given upon request** - Sheriff's personnel, while on-duty or in uniform, or when otherwise recognized as a Member of the Sheriff's Office, shall show their issued photo identification card, give their name, rank or position, in a respectful and courteous manner to any person requesting such identification unless engaged in covert duties.
- 8. Statement of responsibility** - Sheriff's personnel who become involved in personal injury or property damage accidents while on-duty or while operating a Sheriff's vehicle shall avoid statements of liability, and shall not make statements concerning the responsibility for such accidents, or inform parties that the County or Sheriff's Office will pay for damages even though Sheriff's personnel may be at fault. Persons involved should be referred to their own insurance companies, or to the Sheriff's Fiscal Management Division.
- 9. Gossip** - Sheriff's personnel shall not engage in or convey gossip detrimental to other personnel.
- 10. Use of profanity or vulgarity** - Sheriff's personnel shall not use profanity or vulgarity in speech or gestures.
- 11. Correspondence** - Sheriff's personnel shall not use the Monroe County Sheriff's Office or any of its facilities as a mailing address for private or personal purposes. The Monroe County Sheriff's Office address shall not be used on any personal motor-vehicle registration, operator, or chauffeur's license. Monroe County Sheriff's Office letterhead shall not be used for personal or private correspondence.
- 12. Use of communications facilities** - Sheriff's personnel shall not use Office communications facilities or equipment for personal, social, or unofficial purposes except in serious or emergency matters.
- 13. Misrepresentation / speeches (without adverse effect)** - Sheriff's personnel shall secure the consent of the Sheriff prior to making any formal public appearance or publishing any article or releasing any official information which is not within their official duties, even when there is no adverse impact upon the Sheriff's Office.
- 14. Misrepresentation / speeches (with adverse effect)** - Sheriff's personnel shall secure the consent of the Sheriff prior to making any formal public appearance or publishing any article, or releasing any official

information which is not within their official duties when such speech, appearance, or publication has, or is likely to have, an adverse effect upon the Sheriff's Office.

- 15. Misrepresentation / controversial opinions** - Sheriff's personnel shall not express opinions on religious, political, economic, or other questions of controversial nature while on-duty and/or while representing the Monroe County Sheriff's Office without prior knowledge and approval of the Sheriff.
- 16. Testimonials** - Sheriff's personnel shall obtain the approval of the Sheriff before authorizing use of their names, photos, or official titles which identify them as Members of the Sheriff's Office in testimonials, advertisements of any commodity or commercial enterprise.
- 17. Off-duty employment** - Sheriff's personnel shall obtain prior approval from the Sheriff before engaging in other employment, occupation, profession, or commercial enterprise. Approval will not be granted for off-duty employment which might interfere with official duties, employment involving the sale **for on premise consumption** of alcoholic beverages, employment involving bail bond agencies, investigative work for insurance agencies, collection agencies, security agencies or attorneys. **Law enforcement deputies are governed by FSS 561.25 "Officers and employees prohibited from being employed by or engaging in beverage business."**
- 18. Restricted areas and equipment** - Sheriff's personnel shall obtain authorization from competent authority before using Sheriff's Office equipment not regularly assigned, or before entering any locked or restricted area of Sheriff's facilities.
- 19. Wearing of uniform while under disciplinary suspension** - Sheriff's personnel shall not wear the official uniform of the Monroe County Sheriff's Office while under disciplinary suspension except as authorized by the Sheriff, or the Undersheriff.
- 20. Recommending attorneys or bail bondsmen (providing bail)** - Sheriff's personnel shall not recommend or suggest to any person arrested, prisoner, or any other person concerned with a prisoner in custody, the employment or hire of any specific attorney or bail bondsmen. Sheriff's personnel shall not become surety, guarantor, or furnish bail for any person arrested or charged with a crime except Members of the immediate family and then only upon notification of his/her commanding officer.
- 21. Use of prescribed drugs while on-duty** - Sheriff's personnel shall ascertain the likely effect of prescribed drugs from the prescribing physician before reporting for duty. Sheriff's personnel shall obtain the approval of their commanding officer before reporting for duty while taking lawfully prescribed medications likely to impair normal physical and mental faculties.
- 22. Use or odor of alcoholic beverages while on-duty** - Sheriff's personnel shall not consume, ingest, or partake of intoxicating liquors or alcoholic beverages of any kind while on-duty except as authorized in the performance of official duties. Medically prescribed drugs with alcohol base shall not be used on-duty unless approved by a commanding officer. Sheriff's personnel shall not report for duty, or be on-duty with the odor of alcoholic beverages upon their breath **or person** (except when necessary in performance of covert duties) or while under the influence of alcoholic beverages or other drugs.  
**(effective 5-25-2009)**
- 23. Reporting for duty (or being on-duty) while intoxicated** - Sheriff's personnel shall not report for duty or be on-duty while under the influence of intoxicating liquors or drugs or alcoholic beverages.
- 24. Unfitness for duty due to alcohol or drugs** - Sheriff's personnel shall keep themselves fit for duty and shall not become unfit for regularly assigned duty because of excessive use of intoxicating or alcoholic beverages or drugs to the extent normal faculties are impaired as defined by Florida law. Lawfully prescribed medicines taken in conjunction with legitimate sick leave shall be excepted.

- 25. Alcoholic beverages in Sheriff's facilities** - Alcoholic beverages shall not be brought into or kept in Sheriff's Office buildings or vehicles, except as evidence when officially seized and reported, or in urgent necessity upon the advice of a physician and with approval of a commanding officer.
- 26. Entering or frequenting liquor establishments** - Sheriff's personnel, while on-duty, shall not enter or frequent places established primarily for sale, storage, or consumption of alcoholic beverages, or for sale or display of pornographic pictures and materials only in discharge of official duties, and shall not otherwise enter or frequent such places.
- 27. Misuse of identification while drinking** - Sheriff's personnel, while off-duty and partaking of alcoholic beverages and/or frequenting premises established primarily for consumption or sale of alcoholic beverages shall do so only as private individuals, and shall not voluntarily display Sheriff's Office identification unless necessary to perform official duties.
- 28. Engaging in sale of alcoholic beverages** - It is the policy of the Sheriff that NO Deputy Sheriff shall be permitted to engage in the sale of alcoholic beverages or be employed directly or indirectly in connection with the operation of any business licensed under the beverage law, or be permitted to own any stock or interest in any firm, partnership, or corporation dealing in the sale or distribution of alcoholic beverages.
- 29. Abuse of official identification** - Sheriff's personnel shall maintain the security of official Sheriff's Office identification, and shall not lend their identification card or badge to another person, or permit them to be photographed or reproduced without the approval of the Sheriff.
- 30. Misrepresentation of position and/or authority** - Sheriff's personnel shall NOT misrepresent their position or authority to any citizen, Member of another law enforcement agency, or any other person for official duties or personal reasons or gain.
- 31. Intentional abuse of Sheriff's equipment / vehicles** - Sheriff's personnel shall utilize Sheriff's Office equipment for its intended purpose in accordance with established procedures, and shall not intentionally abuse, misuse, or damage Sheriff's equipment or vehicles.
- 32. Careless handling or unintentional abuse of equipment / vehicles resulting in loss or damage** - All personnel shall utilize Sheriff's Office equipment for its intended purpose in accordance with established procedures, and shall not subject such equipment to loss or damage through careless handling.
- 33. Careless handling or unintentional abuse of equipment vehicle not resulting in loss or damage** - All personnel shall utilize Sheriff's Office equipment for its intended purpose in accordance with established procedures, and shall not use Sheriff's Office equipment in a careless manner.
- 34. Use and handling of weapons** - Sheriff's personnel shall use or handle weapons in a careful and prudent manner on or off-duty. Weapons shall be used in accordance with the law and established Sheriff's Office procedures.
- 35. Improper use of office position** - Sheriff's personnel shall not use their official position to gain free admission to any public event or place of amusement, except in the course of official duties or as authorized by the Sheriff.
- 36. Exposing others to communicable diseases** - Sheriff's personnel shall not knowingly harbor a serious communicable disease which may endanger others or knowingly expose others to serious communicable disease.
- 37. Misdirected action or interfering with official investigators** - Sheriff's personnel shall not interfere with cases being processed by other deputies of the Monroe County Sheriff's Office or other governmental

agencies, nor undertake any investigation or other official action not part of their regular duties unless ordered to do so by a superior, unless the intervening officer reasonably believes that failure to act would result in an injustice, or the exigencies of the situation require immediate action.

38. **Misdirected action of personnel under investigation** - Sheriff's personnel against whom a complaint has been made shall not attempt directly or indirectly, by threat, appeal, persuasion, payment of money or other consideration, to secure the abandonment or withdrawal of the complaint, charges, or allegations.
39. **Recognition and exposure of undercover officers** - Sheriff's personnel shall protect the identity of officers engaged in covert operations, and shall not intentionally expose the identity or occupation of officers engaged in covert operations.
40. **Election / polling places** - Deputies shall not enter or remain within an official polling place without permission from elections officials except to cast a ballot or in performance of their official duties.
41. **Defacing or marring bulletin boards** - Sheriff's personnel shall not mark, mar, alter, or deface any printed or written notices placed upon Sheriff's Office bulletin boards.
42. **Defacing or marring facilities** - Sheriff's personnel shall not mark, mar, alter, or deface surfaces of Sheriff's Office buildings or facilities.
43. **Dissemination of information** - Sheriff's personnel shall treat the official business of the Monroe County Sheriff's Office as confidential. Information regarding official business shall be disseminated only to those for whom it is intended and in accordance with established procedures. Sheriff's personnel may remove or copy official records or reports only in accordance with established procedures.
44. **Communicating criminal information** - Sheriff's personnel shall maintain the security of confidential information, and shall not intentionally communicate or give law enforcement information to another which may **hinder or jeopardize an investigation**, aid a person to escape arrest, delay the apprehension of a criminal suspect, secure the removal of stolen or embezzled goods, money, or other property, **or aid another in any criminal endeavor**. Sheriff's personnel shall not intentionally divulge the identity of criminal informants except as required by law and authorized by competent authority.
45. **Handling monies and property** - Money or other property coming into the possession of Sheriff's personnel which does not belong to such personnel shall be delivered to the proper custodian, and a report shall be made of the transaction.
46. **Processing property and evidence** - Property and evidence which has been received in connection with official Sheriff's Office duties will be processed in accordance with established procedures. Sheriff's personnel shall not convert to their own use, manufacture, conceal, falsify, destroy, remove, tamper with, or withhold any property or evidence held in connection with an investigation or other official action except in accordance with established procedures.
47. **Association with dissident groups** - Sheriff's personnel shall not knowingly associate with any person or organization which advocates or is instrumental in fostering hatred or persecution of any person or group which advocates the overthrow of the United States Government.
48. **Association with Criminals** – The integrity and effectiveness of the agency is threatened when certified officers or civilian employees maintain business, social, or romantic relationships with people who **have been engaged in**, are engaged in or likely to become engaged in criminal activities. Agency members must exercise sound judgment and avoid or minimize such relationships. Members are encouraged to seek guidance from supervisors in order to comply with this directive. If, in the sole discretion of the Sheriff or his designee, such a relationship threatens the integrity or effectiveness of the agency any of the following consequences may result:

- a. Counseling the officer or employee to take specific steps to reduce risk to the agency.
- b. Reassignment of position with reduction in pay as appropriate.
- c. Termination.

(Revised 5/15/2006)

- 49. Derogatory ethnic remarks** - Sheriff's personnel shall not make derogatory remarks concerning race, sex, religion, age, or national origin of any person.
- 50. Excessive or unnecessary force not resulting in injury** - Sheriff's personnel shall use only that degree of force necessary to perform official duties and shall not strike or use physical force on any person except when necessary in self-defense, in defense of another, to overcome actual physical resistance to arrest, or to prevent escape.
- 51. Excessive force resulting in injury** - Sheriff's personnel shall use only that degree of force which is necessary to perform official duties, and shall not strike or use physical force on any person to the extent that injuries are inflicted except when necessary in self-defense, in the defense of another, to overcome actual physical resistance, to arrest, or to prevent escape. Any use of force resulting in personal injury shall be reported in accordance with established procedures.
- 52. Use of non-deadly force contrary to rules and regulations and procedures - (Force not resulting or likely to result in injury or death.)** Sheriff's personnel shall use deadly force only in accordance with the Rules and Regulations and procedures of the Monroe County Sheriff's Office and shall not violate Rules and Regulations or procedures even when such use does not and is not likely to result in injury or death. Sheriff's personnel shall not fire warning shots.
- 53. Use of deadly force contrary to rules and regulations and procedures - (Resulting or likely to result in injury or death.)** Sheriff's personnel shall use deadly force only in accordance with the Rules and Regulations and directive procedures of the Monroe County Sheriff's Office and shall not violate Rules and Regulations or procedures to the extent in jury or death results or is likely to result, even when such use of deadly force may be authorized by Florida law.
- 54. Unlawful use of deadly force** - Sheriff's personnel shall use deadly force only in accordance with the Rules and Regulations and directive procedures of the Monroe County Sheriff's Office and shall not violate or exceed statutory provisions governing the use of deadly force to the extent that injury or death is inflicted or likely to result.
- 55. Political activity** - Sheriff's personnel shall not engage in political activities while on-duty or use their official position when engaged in political activities.
- 56. Falsification of official documents** - Sheriff's personnel shall not knowingly falsify or knowingly cause another to falsify any official record or document.
- 57. Violation of laws relating to the Office of the Sheriff** - Sheriff's personnel shall not knowingly violate or cause another to violate any statute or lawfully adopted rule or regulation relating to the Office of the Sheriff.
- 58.** Sheriff's personnel shall not corruptly request, solicit, accept, or agree to accept, any pecuniary or other benefit not authorized by law for past, present, future performance, non-performance or for any act or omission believed to have been either within the official discretion of Sheriff's personnel, or in violation of Florida law.

- 59. **Untruthfulness** - Sheriff's personnel shall not knowingly make false or untrue statements except as authorized in the performance of duties and as necessary to maintain covert operations during investigation of criminal activities.
- 60. **Untruthfulness in an official proceeding; (not under oath)** - Sheriff's personnel shall not knowingly make false statements to a Supervisor or to any official of a government agency during an official proceeding of a government agency even though such statements are not made under oath.
- 61. **Perjury in official proceeding** - Sheriff's personnel shall not knowingly make false statements while under oath in an official proceeding contrary to Florida law.
- 62. **Harassment** - Sheriff's personnel shall not use their official position to harass, threaten, or coerce any person.
- 63. **Chain of command** - Sheriff's personnel shall adhere to the organizational chain of command in the course of regular duties except when necessary for maintaining the morale and/or the integrity of the Sheriff's Office, or in cases of justifiable personal need.
- 64. **Tortious acts** - Sheriff's personnel shall not commit, by act of commission or omission, any flagrant or tortious act while in the performance of their duties. Violations of Civil Rights Acts under color of law 18 USC 241 and 242 are felony offense.
- 65. **Code of Ethics for Public Officers and Employees** - Sheriff's personnel shall strictly adhere to the code of ethics for public officers and employees as set forth in Florida Statutes 112.311-112.326 and the **International Association of Chiefs of Police as adopted by** Monroe County Sheriff's Office.  
(Reference Chapter 30:3 Code of Ethics)

(Effective 2-2-2007)

- 66. **Phone calls** - Sheriff's personnel shall not make phone calls that incur expenses outside the scope of telephone and cellular phone calls contracted by the Office.  
(Revised 9/7/05)
- 67. **Unauthorized / non-official investigations** - No Sheriff's Personnel shall conduct unauthorized or non-official investigations into the alleged misconduct of any other Member of the Office.
- 68. **Conduct Unbecoming** – Sheriff's personnel shall conduct themselves at all times, both on and off duty in such a manner so as to reflect most favorably upon the office. Conduct unbecoming is any conduct which adversely affects the morale, operations, or efficiency of the office or any conduct which has the tendency to adversely affect, lower, or destroy public respect and confidence in the office, or any officer or employee. Conduct unbecoming also includes any conduct that brings the office or any officer or employee into disrepute or brings discredit upon the office or any officer or employee.  
(Revised 5/15/2006)

## I. Job Knowledge and Performance

- 1. General Proficiency** - Sheriff's personnel are required to maintain job knowledge and skills required for the performance of official duties. Sheriff's personnel shall maintain and demonstrate proficiency in required interpersonal skills and in the care and use of vehicles and equipment. Sheriff's personnel shall maintain and demonstrate their knowledge of the law and criminal procedure and shall maintain proficiency in the care and use of firearms demonstrating proficiency in accordance with established standards and qualification Requirements. Sheriff's personnel may be retested for proficiency as provided in directive procedures, with each subsequent failure to qualify constituting an additional offense. Failure to maintain job skills shall result in counseling, instruction or training, and may also result in suspension. Repeated failure to maintain necessary job skills after counseling and instruction shall result in increasing severity of disciplinary actions, up to and including withdrawal of appointment.
- 2. Knowledge of Rules, Regulations and Procedures** - Failure to maintain and demonstrate knowledge of Rules and Regulations or directive procedures shall result in counseling, suspension, demotion or withdrawal of appointment. If appointment is not withdrawn, subsequent violation(s) or recurrent failure to maintain and demonstrate knowledge of Rules and Regulations or directive procedures shall be cause for withdrawal of appointment.

## **J. Complaints Against Members**

Complaints not subject to an Internal Affairs investigation shall be investigated by the subject Member(s)'s immediate Supervisor and documented on the Division Action Form. Any allegations of violations brought forth by any Member or any superior officer which requires an investigation shall follow this format.

### **1. Reporting the Investigation by Division Action Form**

**All Supervisory personnel when reporting the investigation of alleged misconduct by any Member shall utilize the following format:**

**a.** All Division Action Form investigations shall be completed as follows:

- 1)** First page: Monroe County Sheriff's Office Division Action Form. These can be obtained through Internal Affairs.
- 2)** Additional pages: Plain bond paper.

**b.** The format shall be completed as follows:

- 1)** Division Action Form Number - This section is used to identify the Division Action. The investigating Supervisor will obtain the DAF number from Internal Affairs. It is the purpose of the number to track and record all complaints in a chronological order.
- 2)** Allegation - This section is used to clearly describe the nature of the allegation(s). If there is more than one allegation, each must be written separately.

Example: "On March 1, 1988, Deputy Joe Jones is alleged to have driven his marked patrol vehicle through a posted school zone in excess of the posted speed limit."

- 3)** Contrary to: - This section provides an index of the appropriate General Operations Manual Chapter 13 sections and paragraphs addressing conduct issues. The initiating supervisor shall insert the appropriate paragraph number in the blank space.

Example: "E: Neglect of Duty Offenses; Paragraph 1-7, #3)

**a)** The appropriate conclusion is to be indicated, clearly stating whether the violation(s) is (are):

- (1) Sustained (The allegation is found to be substantially true. Generally speaking, the incident occurred and the specifically cited Rule, Regulations or other General or Special Orders were violated by the member.)
- (2) Not sustained (Insufficient facts either to prove or disprove the allegation.)
- (3) Unfounded (Allegation is false or not factual.)
- (4) Exonerated (Incident occurred, but the member's actions were lawful, proper and consistent with Rules, Regulations, Policy or State Laws.
- (5) Commendable (The member is exonerated of the allegation and their actions were found to be commendable.)

4) Complainant - This section is used to write the complainant's contact information:

Example: Helen Smith  
 123 Grouper Lane  
 Key Largo, FL 33070  
 Home #451-1000  
 Work #451-2000

5) Investigation – A memo format is used to report the results of the investigation. It should be written in a logical concise format.

Example: "On March 1, 1988, Mrs. Helen Smith contacted this Office and stated at approximately 2:00 p.m. on March 1, 1988, she observed a Sheriff's Department marked patrol vehicle #999, drive through a marked school zone, Key Largo Elementary, at a high rate of speed. Smith stated that the street was full of children who were waiting for buses or their parents. She stated the deputy did not have his roof lights on and did not appear to be on an emergency call. Inquiry revealed that vehicle #999 is assigned to Deputy Joe Jones. Work records reveal that Deputy Jones was on duty on March 1, 1988, working the day shift.

Deputy Jones was interviewed on March 2, 1988, at 10:00 a.m. at the District III Station. He stated that at approximately 9:00 p.m. he was in the area of the Key Largo Elementary School. He stated he was southbound attempting to catch a traffic violator who also proceeded through the school zone at a high rate of speed. He stated that he was traveling at approximately 60 mph. He states that he was so intent on apprehending the traffic violator that he did not notice he was in the school zone until it was too late. He admitted that he should have paid more attention to his location.

6) Member Response - This section shall be used for the subject Member(s) written response to the allegation / investigation. The Member(s) will have three (3) working days to respond in written memorandum form, if they choose. If more space is needed, the member may attach a memorandum. The response is not required but the member's signature is. This indicates the member has reviewed the allegation and has had an opportunity to respond to it.

### 3. Tips on Interviewing

The following are important tips for investigating citizen's complaints.

a. Interviewing the citizen - If any citizens are to be interviewed as witnesses the investigating Supervisor should,

- 1) Be polite and civil with the complaining citizen. Be prepared for a confrontation as often times the citizen is upset and reacting emotionally. Do not allow them to upset you. It is your job to get the facts. Do not get into an argument with the citizen. Don't allow yourself to become defensive.

- 2) Do not interrogate the citizen; interview him/her. Allow him/her to relate his/her story in his/her own words. Be a good listener. When you ask questions, make sure they are pertinent.
- 3) Reassure the citizen that we will thoroughly investigate the incident and inform him/her of the results.

**b. Interviewing the Member**

- 1) When interviewing Sheriff's Office Members, try and set the interview for a time that does not unnecessarily inconvenience the Member unless it is necessary due to the seriousness of the allegation(s).
- 2) Tell the Member all the facts of the case. Fully advise him/her of all the details so that she/he can respond. Tell them to relate the story in their own words.
- 3) Ask pertinent questions that address the issue(s). Ask the Member directly if she/he did or did not do what is alleged.
- 4) Often times Members will become upset when they learn of a complaint. This is a natural reaction. Reassure them we are interested in obtaining the facts only and that the incident will be objectively and thoroughly investigated.

**4. Determination Section**

- a. This section is used to recommend a determination or conclusion.
- b. The appropriate conclusion is to be indicated clearly whether the violation(s) is (are) sustained, not sustained, unfounded or exonerated.

**5. Non-discipline Action Recommended**

- a. If non-discipline action is recommended, it can be completed and included at this time. If the non-discipline is written on the DAF, the member must sign in the appropriate place at the bottom of the form. This can be done prior to the Colonel's final **approval**.

**6. Discipline Recommended**

- a. Supervisors can recommend discipline, at this time, however, the discipline can not be imposed until the Colonel's final **approval**.

**K. Retention and Maintenance of Records**

1. All records of all disciplinary actions shall become a permanent part of the Member's commendation/discipline file.
2. These procedures will be followed for the maintenance and storage of disciplinary action records:
  - a. Internal Affairs will maintain all DAF's and Internal Affairs Investigations.
  - b. Paper records are kept in Internal Affairs in secure storage.
  - c. Electronic records and copies of paper records will be maintained on a secure server in the Sheriff's Office computer system. Such records will be password protected. Only Internal Affairs personnel and Information Management personnel (for maintenance purposes only) will have access to electronic records.

- 3. The subject Member(s) may request a copy of any record of disciplinary action.
- 4. Retention of Internal Investigation records will follow Chapter 119, F.S. as follows:

**a. Internal Investigation Records: Final Action**

This record series consists of cases investigated that allege employee misconduct and/or violate department regulations and orders, state and federal statutes and municipal ordinances. The completed investigation file indicates the finding of sustained, not sustained, unfounded or exonerated charges. It includes statements by officer, person filing complaint and witnesses, if any. "Formal discipline" shall be defined as including demotions, removals, suspensions or similar action and "informal discipline" shall be defined as including written or verbal reprimands, memoranda or similar action.

**RETENTION**

- a) Record copy – 50 years after separation or termination of employment.
- b) Duplicates – Retain until obsolete, superseded or administrative value is lost.

**b. Internal Investigation Records: Not Sustained/Unfounded**

This record series consists of cases investigated that allege employee misconduct and/or violate department regulations and orders, state and federal statutes an municipal ordinances and the charges were found to be not sustained or unfounded.

**RETENTION**

- a) Record copy – one year
- b) Duplicates – Retain until obsolete, superseded or administrative value is lost.

**c. Internal Investigation Records: Sustained Formal**

This record series consists of cases investigated that allege employee misconduct and/or violate department regulations and orders, state and federal statutes and municipal ordinances and the charges were sustained and formal discipline given. It includes statements by officer, person filing complaint and witnesses, if any. "Formal discipline" shall be defined as including demotions, removals, suspensions or similar action.

**RETENTION**

- a) Record copy – five years after final disposition
- b) Duplicates – Retain until obsolete, superseded or administrative value is lost.

**d. Internal Investigator Records: Sustained Informal**

This record series consists of cases investigated that allege employee misconduct and/or violate department regulations and orders, state and federal statutes and municipal ordinances and the charges were sustained and informal discipline given. It includes statements by officer, person filing complaint and witnesses, if any. "Informal discipline" shall be defined as including written or verbal reprimands, memoranda or similar action.

**RETENTION**

- a) Record copy – three years after final disposition
- b) Duplicates – Retain until obsolete, superseded or administrative value is lost.

**L. Authority to Institute Disciplinary and/or Corrective Actions and the Appeals Process**

1. All disciplinary actions shall begin with the Member's immediate Supervisor, unless such is the result of an Internal Affairs investigation. In general, the authority to approve a disciplinary action is related to the type of action taken:

Type of Non Disciplinary Action                      Authority to Approve

Letter of Counseling                                      Immediate Supervisor  
Remedial Training                                        Immediate Supervisor

Type of Discipline                                        Authority to Approve

Written Reprimand                                        Next Line Supervisor / Immediate Supervisor  
Suspension (Loss of Leave)                            Division Commander or Undersheriff  
Suspension (Without Pay)                              Sheriff or Undersheriff  
Demotion    Sheriff  
Appointment Withdrawal                                Sheriff

a. In the event of suspension without pay, the member shall upon official notification surrender his/her:

- 1) Gun(s)
- 2) Badge and/or shield
- 3) All Office identification and/or credit cards
- 4) Portable equipment (i.e., radars, radios, etc.)
- 5) Vehicle
- 6) Office keys

a) The property may be returned to the member upon return to work at the end of their suspension by the Division Commander or designee.

b) In the event of suspension without pay, the Sheriff or his designee will notify the Finance Division and the Human Resource Section via chain of command, of the suspension and the length of such. **Notification shall also be required when member is reinstated.**

c) It should be noted and understood by all members who are suspended without pay that they will be required to make independent payment(s) for services (i.e., dependent health insurance, share drafts at the credit union, liens, etc.), which would normally be deducted from their salary while on suspension without pay. It will be the member's responsibility to attend to such matters.

d) In the case of suspension without pay, the member will be expected to keep the Office informed of where he/she can be reached during normal business hours.

b. In the event of a suspension with pay, the member shall, upon official notification surrender his/her gun(s), badge / shield, all Office identification and/or credit cards, portable equipment (e.g., radars, radios, etc.), vehicle, and Office keys, **at the discretion of the Division Commander.**

- 1) The property may be returned to the member by the division commander or his/her designee upon the member's return to work at the end of the suspension.
  - 2) In the event of a suspension with pay, the member will immediately be placed on an administrative schedule (i.e., Monday through Friday 8:00 a.m. to 5:00 p.m.) with his/her temporary duty station being designated as the location of their residence. The member will be expected to keep the Office aware of his/her location at all times while on suspension.
  - 3) In lieu of suspension with pay, the Office reserves the right to reassign a member to a less critical position as may be deemed necessary in light of the circumstances surrounding the issue.
- c. In the event of suspension with or without pay or administrative leave with or without pay, the Division Commander or his/her designee or appropriate level supervisor will be required to ensure that a time sheet is properly completed for the member covering said time frame. **Appropriate copies of the suspension letter(s) will accompany the member's time sheet.**
- d. In the event of termination, the member shall immediately surrender all Office property in his/her possession, at that time. The Division Commander will be responsible for obtaining the remainder of the Office property immediately after the member's notification. The Division Commander will be required to obtain an equipment and uniform listing from the Office of Finance and Accounting on the member to verify all receipted property.

## 2. Appeal process for Non-compensatory Discipline

- a. The Member may accept or appeal the disciplinary decision resulting from a Division Action Form or Internal Affairs investigation.
- b. This appeal process is for all discipline except suspension without pay for forty (40) or more, demotion, or withdrawal of appointment. Refer to section "L" for appeal of those disciplinary actions.
  - 1) Should the Member accept the disciplinary action, the memorandum imposing discipline is given to the Member; with a copy forwarded to Internal Affairs where it becomes a permanent part of that member's record.
  - 2) Should the Member wish to appeal the discipline imposed, the he/she must appeal in writing, in inter-office memorandum format, directly to the Undersheriff within seven (7) calendar days after being notified of the discipline. This written appeal must explain the grounds or reasoning for the appeal, and should include any/all facts and/or documentation which the member feels could mitigate the discipline. The Undersheriff shall, within thirty (30) calendar days, sustain the discipline or amend it by dropping it, reducing it, or increasing it, and citing the "conclusion of fact", and shall advise the member of his decision in writing. If circumstances prevent the Undersheriff from acting within thirty days, the Undersheriff or his designee shall, within, the same time frame, advise the member in writing of the delay, including the reason for the unavoidable delay (e.g., the Undersheriff being on leave), and the date on which the member may expect a response.
  - 3) If the member accepts the Undersheriff's decision on the appeal, a copy of the appeal decision is given to the member, with copies forwarded to the member's Division commander and to the Internal Affairs Office where it becomes a permanent part of the member's records.
  - 4) Should the member wish to appeal the Undersheriff's decision, he/she must do so in writing directly to the sheriff within seven (7) calendar days of being notified of the Undersheriff's decision. This written appeal should include all facts and/or documentation the member feels could mitigate the Undersheriff's decision. The Sheriff shall, within thirty (30) calendar days, sustain the Undersheriff's decision, or amend it by dropping the discipline, reducing it, or increasing it, and citing the "conclusion

of fact", and advise the member of his decision in writing. If circumstances prevent the Sheriff from acting within thirty days, the Sheriff or his designee shall, within the same time frame, advise the member in writing of the delay, including the reason for the unavoidable delay (e.g., the Sheriff being on leave), and the date on which the member may expect a response. The Sheriff's decision is final, and no further appeals are available. The Sheriff's decision shall be documented on paper with a copy given to the member, a copy forwarded to the member's Division commander and to the Internal Affairs Office where it becomes a permanent part of the member's record.

5) In cases where the public interest would be best served by not allowing the member to continue to perform his/her duties, such a member's immediate supervisor has the authority to immediately suspend such a member with pay. A supervisor taking such action must immediately notify his/her own supervisor and must immediately submit a written report of the circumstances and reasoning that led to the suspension.

6) In cases involving an Internal Affairs investigation, refer to Chapter 20 for the review and findings process.

#### **M. Discipline Implementation**

1. **All imposed disciplines shall be implemented and completed immediately following it being imposed. If for any reason it cannot be completed, the date for implementation must be set and approved by the Undersheriff.**

2. **Documentation must be provided to Internal Affairs by the employee's commander confirming the discipline has been completed immediately following the discipline.**

(Effective 12-18-2006)

#### **N. Career Service Board / Appeal Process / Compensatory Discipline**

1. Pursuant to Monroe County Sheriff's Office Career Service Bill (Florida Law 97-345), any Sheriff's office employee who is a member of "classified service" **not covered by the collective bargaining agreement, regardless of union membership**, for a period of one calendar year may appeal discipline that is suspension without pay for forty hours or more, demotion, or withdrawal of appointment, to the Disciplinary Review Board.

2. For information concerning member's rights and responsibilities, when requesting a disciplinary review board, see Career Service Bill 97-345. A copy of this document shall be maintained at all Sheriff's Office Substations, Detention Centers, and Headquarters.

#### **O. Motor Vehicle Accident Review Board for Office Members**

1. Membership of the Board - The Motor Vehicle Accident Review Board shall consist of a chairperson and/or the Risk Manager, and at least one representative from each district who holds a law enforcement or corrections certificate (usually the District Commander or Station commander).

2. General Duties of the Motor Vehicle Accident Review Board

a. It shall be the responsibility of the Risk Manager to:

1) Schedule dates for the MVARB meetings.

2) Notify the appropriate command staff of the MVARB meeting to include the date, time and location of the hearings.

- 3) Notify the appropriate member involved at least five (5) days prior to the hearing and obtain a list of witnesses from the member to be presented at the board (if applicable).
- 4) Compile, maintain, and provide to the MVARB the accident and/or incident records and reports which will be presented at the MVARB hearings.

b. The MVARB will conduct the meetings under Robert's Rules of Order.

c. The MVARB will review the preliminary findings made by Risk Manager which are being appealed by the member involved.

d. The MVARB, after hearing the member's statement, will make a determination whether to uphold the original findings, modify or change the findings set forth by the Risk Manager by a majority vote. The decision of the MVARB shall in no way be contingent upon a chargeable offense, or upon the findings of a court hearing:

1. **Avoidable** – A motor vehicle accident or incident which results in property damage and/or personal injury, in which the driver in question failed to exercise due care to avoid the accident or incident.

2. **Unavoidable** – A motor vehicle accident or incident which results in property damage or personal injury in which the driver in question is NOT at fault

e. Upon notification from the MVARB, it shall become the responsibility of the Internal Affairs Division to track the case and ensure that the appropriate disciplinary and/or corrective actions are being taken as ordered by the MVARB.

f. It shall be the responsibility of the Risk Manager to submit all appropriate documentation (i.e., Loss Control Sheet, Reports, Pictures, etc.) to the Sheriff's Office insurance carrier.

g. It shall be the responsibility of the Risk Manager to create, number and store all MVARB case files. Each file will be assigned its own number for tracking purposes:

MVARB YR-01  
MVARB YR-02  
MVARB YR-03

h. While the intent of the MVARB is to avoid unnecessarily having the member appear before it, any member may attend and/or address the MVARB on his/her behalf even if the board does not intend to call him/her. In this respect, the Risk Manager is authorized to review the file and make a preliminary ruling. If the member accepts the ruling, the matter can be resolved in accordance with normal standards. If the member rejects the ruling, the case at that time will be presented to the MVARB.

### 3. Disciplinary Policy Guide

a. If an accident or incident is found to be avoidable, the MVARB may recommend one or more of the following discipline:

1) Letter of Non-Disciplinary Counseling

2) Written reprimand

3) Driver's Improvement School (i.e., EVOC)

4) Loss of vehicle take home privileges

5) Loss of accrued leave, which will be calculated at the member's current rate of pay, up to the amount of deductible paid by the Office in repair of the damaged vehicle and/or property.

6) Suspension, dismissal, or removal from the member's current position.

b. Recommendations for disciplinary action shall be based on:

1) Type and seriousness of the traffic violation or violations of procedures.

a) Amount of damage to the vehicle and/or property.

(1) Past driving history (not to exceed three (3) years).

**P. New Sheriffs Pursuant to Florida Law 89-410 – Moved to Chapter 9:37**

**Q. Reporting Sustained Allegations to Florida Standards and Training**

1. In accordance with the Department of Law Enforcement, Criminal Justice Standards and Training Commission, Chapter 11B-27.0011(5) all sustained allegations of moral misconduct as defined in 11B-25.0011(4), where dismissal does not occur will be report to the Standards and Training Commission within forty-five (45) days from the date of the allegation.

2. Any disciplinary action **that results** in dismissal will be reported by the Human Resources Section as normal notice of separation for the Office.