



EMERGENCY SUSPENSION OF POLICE POWERS

Directive 5 - 106

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I. PURPOSE

The purpose of this directive is to outline the procedures to be followed when it is necessary to suspend a law enforcement officer's police powers.

II. POLICY

In accordance with the procedures in this directive, the MCP may suspend a law enforcement officer's police powers when deemed to be in the best interest of the public and the MCP.

III. PROCEDURES

A. GENERAL PROVISIONS

1. A suspension may be imposed against a police officer by a supervisor of a higher rank than the suspended officer.
2. An emergency suspension should be imposed when the officer:
 - a. is the respondent to a temporary ex parte or protective order;
 - b. is the respondent to a temporary ex-parte or peace order where the issuing authority prohibits the officer from possessing a firearm;
 - c. is accused of a criminal offense and a charging document has been issued by a court or the issuance of a charging document is imminent;
 - d. has been charged with a serious traffic offense that calls for a period of incarceration;
 - e. is accused of a Category "E" offense which may result in a termination of his employment;
 - f. is charged on a MSP form 181 with a violation of a Category "E" offense and after discussions with the Assistant Attorney General for DGS (DGS-AG), the recommended penalty is termination of his employment; or
 - g. fails to obey a lawful order dealing with submitting to an interrogation, interview, polygraph, medical test, chemical test, blood test, photograph or line up.
3. An emergency suspension may be imposed in any other instance where a suspension of police powers would be in the best interest of the Agency and the public.
4. Concurrence of the Chief of Police will be obtained as soon as possible.
5. The commander of a suspended employee will retain custody of the employee's issued:

- a. firearm, magazines, and ammunition;
 - b. badges;
 - c. identification card;
 - d. MPTC officer certification card; and
 - e. Vehicle (if applicable).
6. Emergency suspension without pay may be imposed when the officer has been charged with a felony.
 7. A suspended officer will be advised whether the suspension is with or without pay by means of a Form 18.
 8. The Form 18 will be promptly faxed to the Chief of Police or his designee, the Commander, SSD and the Human Resources Division.
 9. The suspended officer will be notified of the date, time and location of the emergency suspension review hearing.
 10. When an officer is suspended by the State Medical Director or due to physical or psychological reasons:
 - a. a Form 18B will be completed; and
 - b. by law, the officer is not entitled to an emergency suspension review hearing.
 11. A suspended officer will not exercise his police powers until those powers have been restored by the Chief of Police.
 12. Probationary officers are not entitled to an emergency suspension review hearing except in the case of brutality.
 13. Concerns about an officer's ability to perform essential job functions, due to physical or psychological reasons, will be referred to the State Medical Director.

B. REVIEW HEARING PROCEDURES

1. An emergency suspension review hearing will be promptly held. The Chief of Police may delegate the authority to conduct the hearing and designate an MCP commissioned officer as the Chairman of the Emergency Suspension Review Board (ESRB).
2. A suspended officer's commander will:
 - a. contact the Operations Commander whenever there is an emergency suspension of police powers;
 - b. direct the suspended officer to appear for a review hearing if applicable; and
 - c. be the presenter of facts or coordinate with the DGS-AG regarding the presentation of facts.
3. Suspended officers may waive the review hearing by completing and submitting Form 182, Emergency Suspension - Waiver of Hearing, to the officer's commander who will fax a copy to the Operations Commander.

C. EMERGENCY SUSPENSION REVIEW BOARD

1. The ESRB will be comprised of three members and at least one will be the same rank of the suspended officer.
2. The ESRB will convene within 72 hours of the suspension from duty unless the time limit is extended by mutual agreement of the Agency and the suspended officer.
3. The ESRB will conduct a hearing and recommend to the Chief of Police one of the following:
 - a. Suspension was not justified and the officer should return to duty.
 - b. Suspension was justified but the officer should return to duty.
 - c. Suspension was justified and the officer's suspension should continue.
4. The ESRB will limit the scope of the review and determine if the continuation of the suspension is necessary to protect the public interest or the MCP; only matters dealing with the disposition of the suspension will be heard.
5. During an ESRB hearing, a suspended officer may:
 - a. be accompanied by counsel;
 - b. rebut the reason(s) for the initial suspension;
 - c. present mitigating testimony; and
 - d. suggest alternatives to suspension.
6. The presenter of facts will:
 - a. present reason(s) for the initial suspension;
 - b. make recommendations concerning the officer's leave status and temporary assignment during the period of suspension; and
 - c. recommend a final disposition on the suspension.

D. RESPONSIBILITIES OF THE EMERGENCY SUSPENSION REVIEW BOARD CHAIRMAN

The ESRB Chairman will:

1. ensure the hearing is taped and the tape is maintained by the Commander, SSD;
2. advise the suspended officer that the suspension will continue pending the Chief's decision and that the officer will be notified of the decision in writing;
3. prepare a report containing the ESRB's recommendation and forward it to the Chief of Police;
4. instruct an officer who is suspended with pay and not assigned to administrative duties at an MCP installation to notify the officer's commander, Monday through Friday, excluding holidays, between 0900 and 1000 hours and provide a telephone number or location where the suspended officer can be contacted.

E. RESPONSIBILITIES OF THE COMMANDER, SSD:

The Commander, SSD will:

1. receive the report and Chief's decision;
2. make notification to MPCTC as necessary;
3. notify the Director of HRD for issuance of a personnel order; and
4. maintain the report and the Chief's decision.

F. RESPONSIBILITIES OF THE CHIEF OF POLICE

The Chief of Police will:

1. review the ESRB's report;
2. determine if the suspension should be continued;
3. determine if the suspension is with or without pay; and
4. Notify the officer in writing of his decision.

G. REINSTATEMENT OF POLICE POWERS

1. When police powers have been suspended, with or without pay, and the allegations which led to the suspension are or appear to be without merit, the officer's commander will consult with the Operations Commander for input on all relevant case information.
2. If the Operations Commander determines the officer's police powers should be reinstated, the Operations Commander will send a Form 17 delineating the reasons for recommendation of reinstatement to the Chief of Police.
3. The Chief of Police will evaluate the request and make a final decision.
4. The reinstatement procedure may be implemented either before or after the ESRB hearing.
5. If the Chief of Police reinstates the officer's police powers, the Operations Commander will make the appropriate notifications.