

PRINCE WILLIAM COUNTY POLICE DEPARTMENT MANUAL OF GENERAL ORDERS			
General Order: 10.07	Effective: 08/28/2018	Supersedes: 06/01/2016	Number of Pages: 3
DISCIPLINARY ACTION: APPEAL PROCEDURES			

Disciplinary action may be appealed through the chain of command to the Chief of Police. The Chief of Police may designate the Deputy Chief as the final appeal level in these matters. Once the Chief, or his designee, has ruled on the appeal, if the disciplinary action is grievable, a non-probationary member may appeal the decision through the Prince William County Grievance Procedure. A non-probationary sworn member may appeal discipline that includes termination, demotion, suspension without pay, or disciplinary transfer through either the *“Law Enforcement Officers’ Procedural Guarantees”* (§9.1-501 Code of Virginia, et. Seq.) or the Prince William County Grievance Procedure, but not both. The time for filing these appeals shall commence on the date upon which the disciplinary action is effective.

A. Police Trial Board Procedure.

The Prince William County Police Trial Board of Appeals is established to provide a police hearing panel in accordance with §9.1-504 Code of Virginia, entitled “Law Enforcement Officers’ Procedural Guarantees” and the Prince William County Personnel Rules and Regulations.

The sworn member must file a request for a hearing no later than twenty (20) calendar days after the action is effective. The Trial Board will hold a hearing within fourteen (14) calendar days of the request for the hearing, unless a later date is agreed to by the member.

The following rules of procedure are intended as guidelines and are, therefore, deliberately general in nature. The above-cited Virginia Code sections fully set forth the applicable rules of procedure, and shall govern in the event of any inconsistency with these General Orders.

The Hearing Panel shall be known as the *“Prince William County Police Trial Board of Appeals,”* hereinafter referred to as the *“Trial Board.”*

The objective of Trial Board procedure is to provide a hearing through which all non-probationary sworn members of the Police Department, if they elect, may appeal four specific adverse actions only: (1) Termination, (2) Demotion, (3) Suspension Without Pay, and (4) Punitive Transfer for Disciplinary Reasons. Other adverse actions may only be appealed through the County Grievance Procedure, if applicable.

- 1. Makeup of the Trial Board** – The Trial Board shall consist of three members from within the Department. The Chief of Police shall select one member equal but no more than two ranks above the appealing member. (A Detective is not considered as one rank above an Officer.) The appealing member will select one member of the Department of any rank. The selected two members shall select the third member from the Department by mutual consent.

In the event that the two members cannot agree upon their selection, the Chief Judge of the Circuit Court of Prince William County shall choose the third member, in accordance with law. The third member selected shall act as the presiding officer of the Trial Board. Such member shall be referred to as the “*Chairperson.*”

2. **Procedural Matters** – The Chairperson shall preside at all hearings and shall enforce all laws, General Orders, and Trial Board rules of procedure. The Panel will decide all questions of procedure, and shall perform such other duties as may be related to their office in accordance with all laws, General Orders, and rules of procedures.
3. **Scheduling Hearings** – All hearings shall be conducted at a time and place selected by the Chairperson with the approval of a majority of the Trial Board. Such hearings shall be recorded. The Administrative Division Commander will provide for such recording, needed supplies, etc., at Department cost.
4. **Admissibility of Evidence** – Any question coming before the Trial Board that is not specifically addressed in these rules of procedure shall be governed by the rulings of the Panel. Majority vote shall rule.
5. **Hearings Closed to Public** – All hearings shall be closed to the public, unless requested by the appealing member and agreed to by the Chief of Police. The Chairperson may close a hearing to all participants whenever, in their judgment, discussion of a matter before the Board requires it. (Example: Chairperson calls for a closed discussion to debate their ruling on the admissibility of evidence.)
6. **Right to Counsel** – The Department and the appealing member may be represented by counsel; however, the appealing member must do so at their own expense.
7. **General Rules Governing the Hearing.**
 - a. The hearing shall be informal; however, proper respect and decorum is expected at all times. The Chairperson may remove any person from the hearing for just cause.
 - b. The Trial Board may **require** any member of the Department to appear. Failure of a Department member to appear could result in disciplinary action. The Trial Board may, and on the request of either party, **request** any other person to appear. Section 9.1-504 *Code of Virginia*, provides that the hearing panel may, and on the request of either the law-enforcement officer or his agency shall, issue subpoenas requiring the testimony of witnesses who have refused or failed to appear at the hearing. The Chairperson shall remind all witnesses of the importance of complete and truthfulness when testifying. All persons in attendance shall be required to adhere to the rulings of the Trial Board during hearings.
 - c. The Police Trial Board is conducted to provide the involved member an opportunity to contest the findings or imposed discipline. As such, it shall be the involved member’s responsibility to demonstrate that the Department’s actions were without cause, or done in violation of law, rule, regulation, or policy. The normal order of business shall be as follows:

- 1) Chairperson calls Trial Board to order and recognizes all persons in attendance for the record.
- 2) Opening Argument – Appealing Member’s Representative. (Not a member of the Trial Board)
- 3) Opening Argument – Department Representative. (Not a member of the Trial Board.)
- 4) Member’s Case
 - Direct Examination
 - Cross Examination
 - (re-direct and re-cross)
- 5) Department’s Case
 - Direct Examination
 - Cross Examination
 - (re-direct and re-cross)
- 6) Closing Argument – Appealing Member’s Representative
- 7) Closing Argument – Department Representative
- 8) Rebuttal Argument – Appealing Member’s Representative
- 9) Trial Board Deliberations
- 10) Trial Board Advisory Recommendations

The Trial Board shall reach a decision on its recommendations in executive session by majority vote. The recommendations will be reduced to a written report, including the reasons, and shall be transmitted promptly to the appealing member or the member’s attorney and the Chief of Police. Upon receipt of the recommendations, the appealing member may verbally poll the members of the Trial Board. The Trial Board recommendations are advisory only to the Chief of Police; however, such recommendations shall be afforded significant weight by the Chief of Police.

B. Prince William County Grievance Procedure.

Copies of this procedure may be obtained from the County Human Resources Office or through the Office of the Chief of Police.