



Kern County Sheriff's Office **Policies and Procedures**

TITLE:	EMPLOYEE DISCIPLINE – PRE-DISPOSITION SETTLEMENT AGREEMENT		NO: D-0700
APPROVED:	Donny Youngblood, Sheriff-Coroner		
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POLICY

The Kern County Sheriff's Office recognizes that good order and discipline are essential elements of the law enforcement profession. To maintain public trust, the Kern County Sheriff's Office endeavors to hold its employees, sworn and non-sworn, to the highest standards of the police profession. An essential element of maintaining these standards and ideals is the imposition of discipline when an employee's conduct falls short of the standards established by the Sheriff's Office.

All disciplinary matters will be investigated and handled consistent with the Sheriff's Office investigative standards, the California Peace Officers Procedural Bill of Rights (Government Code § 3300 et. seq.) as applicable, and current statutory and case law. If employee misconduct requires the imposition of disciplinary action, such disciplinary action shall be taken in an informed, reasonable, timely, fair, and uniform fashion, without compromising the mission of the Sheriff's Office.

It is recognized that occasions exist where the Sheriff's Office, the public, the complainant(s), and the subject of an investigation will benefit from a prompt, mutually agreed upon resolution to specific, non-serious disciplinary matters. Pre-disposition settlement agreements offer the following advantages:

- Less-serious matters are resolved relatively quickly, the public benefits from quick resolution, and the subject employee is able to put the matter behind him/her.
- Less investigatory time and effort are required.
- Encourages employees to accept responsibility for their conduct.

This policy is therefore enacted in order to establish policies and procedures relevant to pre-disposition settlement agreements.

PURPOSE

The pre-disposition settlement agreement is designed to resolve employee performance and behavior issues quickly and effectively. Usually, there is evidence to support the allegations without question, and it would be reasonable to conclude that the employee violated policies and procedures. This evidence can be derived from many sources, including crime reports, recorded interviews with witnesses or the subject employee, body-worn camera recordings, security camera recordings, and/or GPS location history. If the reviewer of the evidence (managers and higher

ranks) in a non-serious case believes there is no further investigation needed and clear evidence of alleged misconduct exists, then a pre-disposition settlement agreement should be considered.

DEFINITIONS

A pre-disposition settlement agreement (PDSA) is an alternative to a full disciplinary investigation to be employed only under specific, limited circumstances as described in this policy.

ELIGIBILITY

Internal Affairs cases that, if sustained, could result in a termination of employment or demotion are not eligible for a PDSA. Pre-disposition settlement agreements may be utilized only when the issue does not involve a serious policy violation, and the subject employee takes ownership of the misdeeds, subject to the following criteria:

- A serious policy violation includes any of the following:
 - Serious misconduct, such as contained in KCSOPPM Sections C-0100, C-0200, and C-0300.
 - Complaints of excessive or unnecessary force.
 - Dishonesty.
 - Insubordination.
 - Any other violation which is not solely duty or performance-based as set forth in KCSOPPM Section “B.”
 - Any circumstance where lower levels of corrective action or discipline have failed.
 - A review of the employee’s disciplinary history reveals multiple sustained findings for similar or the same allegations.
- The PDSA process is best utilized when:
 - The subject employee readily acknowledges their error, accepts responsibility for their conduct, and desires the matter to be rapidly resolved.
 - The subject employee agrees to forego a full investigation and agrees to all conditions of the PDSA.
 - The involved Bureau Chief Deputy and Division Commander concur that the PDSA is an appropriate remedy to the disciplinary situation.
 - The agreed-upon remedy will be presented by the involved Bureau Chief Deputy to the Support Services Bureau Chief Deputy. The Support Services Bureau Chief Deputy will act as the deciding vote should a disagreement occur between the involved Bureau Chief Deputy and Division Commander.

PRE-MEETING PROCEDURES

Upon becoming aware of any PDSA-eligible personnel complaint against a member under his/her command, the affected Bureau Chief Deputy will evaluate the complaint and authorize the complaint for a PDSA or order the complaint investigated pursuant to D-0200 or D-0300, as appropriate. The Bureau Chief Deputy’s decision will be indicated on the associated complaint

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documentation. The Bureau Chief Deputy will meet with the Support Services Bureau Chief Deputy to confirm the complaint meets the criteria for a PDSA.

Upon receiving a PDSA-authorized complaint from a Bureau Chief Deputy, Internal Affairs Unit personnel will prepare a PDSA package and forward the package to the subject employee's Division Commander. The PDSA package will minimally contain:

- The PDSA authorized complaint.
- A summary of the subject employee's past and pertinent disciplinary history, if any.
- Additional relevant information as appropriate.

The Division Commander will:

- Thoroughly review the complaint and make themselves aware of the facts of the matter and any mitigating or aggravating factors that may exist.
- Develop a proposed disciplinary action based on the facts of the case and past practice.
- Contact their Bureau Chief Deputy and present the proposed discipline for approval.
 - The Bureau Chief Deputy will evaluate the Division Commander's proposed discipline and either authorize the discipline or suggest alternatives. In any case, PDSA disciplinary action must have both the involved Division Commander and the Bureau Chief Deputy's approval before being presented to the subject employee.
- The Internal Affairs Unit will also be made aware of the discipline and service of the PDSA. An Internal Affairs investigator will be assigned to assist the Division Commander during the PDSA process.
- Once the appropriate discipline has been agreed upon, the Division Commander will personally contact the subject employee. Pursuant to Government Code § 3303, the Division Commander will not ask the subject employee any questions regarding the complaint, but will:
 - Inform the subject employee that a complaint has been lodged against them.
 - Inform the employee of the nature of the complaint, including approximate date, time, and policy, procedure, or law violated.
 - Inform the employee that the matter has been approved for a PDSA.
 - Provide the employee with a copy of the complaint and a PDSA notification letter.
 - Inform the subject employee that they have the right to refuse the PDSA and have the matter fully investigated and adjudicated pursuant to the provisions of D- 0200 or D-0300, as applicable, if they would like.
 - Inform the employee that they have the right to consult with an attorney or representative before making any decisions regarding the PDSA. The representative shall not be a person subject to or involved in the investigation.
 - Inform the employee that all matters resolved by PDSA require the subject employee to accept full responsibility for their misconduct and submit a responsibility memorandum. The memorandum must clearly acknowledge personal responsibility for the misconduct or policy violation alleged in the complaint and must include a statement that outlines how the employee will ensure the errant behavior will not be repeated.

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- Inform the subject employee that the responsibility memorandum will be retained with the Internal Affairs Unit case file.
- Order the subject employee to contact the Division Commander or their designee within five (5) business days with a decision on whether they would like to pursue the PDSA.
 - If the employee would like to pursue the PDSA, a PDSA meeting will be scheduled at a mutually convenient date and time pursuant to Government Code § 3303.
 - If the subject employee declines the PDSA or fails to contact the Division Commander or designee within five (5) business days to schedule the PDSA meeting, the matter will be returned to the Internal Affairs Unit for investigation and adjudication pursuant to D-0200 or D-0300, as applicable.

PDSA MEETING PROCEDURES

The affected Division Commander will conduct the PDSA meeting in a manner that affords the subject employee all applicable rights pursuant to County and Sheriff's Office Policies and Procedures and the Peace Officer Bill of Rights.

- The PDSA meeting will commence with the Division Commander specifically telling the subject employee:
 - An audio recording will be made of the meeting and the employee has a right to a copy of the recording. The employee also has the right to record the meeting.
 - The employee has the right to waive the PDSA and have the matter investigated pursuant to D-0200 and D-0300 as applicable.
 - The employee has the right to have an attorney or representative of their choice present during the meeting. This representative shall not be a person subject to or involved in the investigation.
- The Division Commander will verbally present the proposed discipline to the employee. The Commander and the employee may discuss the proposed discipline, but the Commander will not interrogate the subject employee regarding any aspect of the complaint. Unless the employee immediately refuses the proposed discipline, the Commander will prepare and present to the subject employee a written, but unsigned, settlement agreement document containing the proposed discipline.
- The employee will be afforded a reasonable period of time, not to exceed 72 hours, to privately discuss the proposed discipline and the settlement agreement document with his/her representative or attorney if the employee so desires.

At the subject employee's discretion, the remaining actions may be conducted during the PDSA meeting or at a later, mutually agreed-upon time, not to exceed 72 hours after the employee receives the verbal presentation of the proposed discipline.

- If the employee agrees to the discipline, the employee will present his/her prepared memorandum of responsibility to the Division Commander.
- The Division Commander will review the employee's memorandum of responsibility and verify the memorandum meets the criteria established in this policy before signing the pre-disposition settlement agreement.

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- The employee and the Division Commander will sign the PDSA document. The Division Commander will add the original, signed PDSA document with the audio recording to the case file and will cause the file to be returned to the Internal Affairs Unit. Internal Affairs Unit personnel will retain the case file consistent with County and Sheriff's Office policies.
- The Division Commander will cause the agreed-upon discipline to be administered and notify the Internal Affairs Unit once the PDSA has completely been satisfied.

PDSA TERMINATION

The employee has the right to abort the PDSA process at any time prior to signing the PDSA document. If the meeting is aborted by the employee, the matter will be returned to the Internal Affairs Unit for investigation and adjudication pursuant to D-0200 or D-0300, as applicable.

MEMORANDUM OF RESPONSIBILITY

The subject employee may prepare a written memorandum of responsibility prior to the PDSA meeting or after being verbally advised of the proposed discipline. The memorandum must minimally include the following:

- A description of the relevant incident.
- A statement accepting full responsibility for his/her misconduct as alleged in the complaint.
- A statement explaining the specific actions the employee will take or has taken to ensure the errant behavior will not be repeated.

DISPOSITION

Acceptance and execution of a PDSA means that all the policy violations and allegations written on the PDSA are deemed to be sustained for reporting purposes. Any discipline imposed through a PDSA may be used for the purposes of demonstrating progressive discipline. Further, this includes a waiver of any and all future administrative and/or judicial remedies with respect to the personnel matter being resolved through the PDSA.

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