

# HONOLULU POLICE DEPARTMENT

## POLICY SUPPORT OPERATIONS

April 24, 2019

Policy Number 5.03

### RESTRICTION OF POLICE AUTHORITY

#### POLICY

In any situation in which misconduct is alleged and/or irregularities exist, the rights of the officer shall be balanced with operational concerns, the reputation of the department, and the best interests of the community.

The restriction of police authority is an order by the Chief of Police to an officer to cease the use of any police authority until further notice. This order may require the officer to turn in certain police equipment (including department-issued firearms and ammunition).

#### PROCEDURE

- I. An officer's police authority may be restricted by the Chief of Police for reasons that shall include, but are not limited to:
  - A. Ensuring the safety of the officer, as well as that of the community;
  - B. Ensuring that officers are able to perform their duties both competently and safely;
  - C. Preserving the integrity of the Honolulu Police Department (HPD) and all its members; and
  - D. Minimizing potential civil/criminal liabilities for both the officer and the department.

II. RESPONSIBILITIES

- A. Only the Chief of Police may restrict an officer's police authority.

This restriction is different from the actions of a supervisor who suspends or places an officer on leave pending investigation in accordance with the Standards of Conduct, the seizure of firearms and ammunition in accordance with state law or court order, and so forth.

- B. Officers placed under restricted authority shall comply with the order.

III. EQUIPMENT RECOVERY FOR RESTRICTED AUTHORITY

- A. Total Recovery

Unless otherwise authorized by the Chief of Police, officers shall turn in all of the following issued items: identification and access card(s); keys; police badge; cap shield; firearm(s); ammunition; magazines; baton; chemical agent; handcuffs; blue light(s); mobile data computer; cellular telephone; and portable radio and accessories. Such accessories shall include the charger, carrying case, speaker microphone, and batteries (including charger and carrying case).

- B. Partial Recovery

The Chief of Police may require officers to turn in specific police equipment in certain situations.

IV. SITUATIONS WHICH MAY RESULT IN RESTRICTED AUTHORITY

Certain situations which may result in the restriction of police authority shall include, but are not limited to:

- A. Criminal charge(s);
- B. Arrest of the officer;
- C. Positive drug test;
- D. Termination pending;

- E. Workers' compensation claim for stress;
- F. Fitness-for-duty evaluation;
- G. Limited-duty assignment;
- H. Court order for protection;
- I. Any violation or revocation of probation or setting aside of a Deferred Acceptance of Guilt or Nolo Contendere plea;
- J. Civil rights issues;
- K. Expiration of firearm qualification;
- L. Any leave without pay for greater than 30 days;
- M. Administrative investigation of a serious conduct violation; and
- N. Criminal investigation.

The following are some of the factors of a criminal investigation that element commanders and the Chief of Police shall take into consideration when recommending restricted duty:

1. Validity of the allegation;
2. Seriousness of the allegation; and
3. Corroborative evidence, such as use of force report(s), audio or video recording(s), and/or impartial witnesses.

V. RESTRICTED AUTHORITY RECOMMENDATION

- A. Upon the receipt of verbal or written information to place an officer under restricted authority, the element commander shall conduct an inquiry for the validity and thoroughness of the information provided. The element commander shall send his or her written report by the next working day to the Chief of Police, via the chain of command, including both deputy chiefs, and send a copy of the report to the commander of the Human Resources Division (HRD).

- B. The report shall include a recommendation whether to place or not to place an officer under restricted authority, based on the facts and circumstances presented.
  - 1. For the safety of the officer and the community, the division-level commander shall be authorized to invoke the Chief's authority and immediately remove the officer's department-issued firearms, ammunition, and other equipment.
  - 2. If the officer's firearms are removed, but he or she remains on duty, the commander shall ensure that the officer is in appropriate civilian attire and is assigned to desk duties.
- C. Each restricted authority recommendation report may be reviewed by the Administrative Review Board (ARB).
  - 1. The division-level commander and/or Professional Standards Office commander, as appropriate, may be requested to appear before the ARB to provide information that pertains to the decision of restricting the officer's authority.
  - 2. The ARB shall submit its recommendation for restricted authority to the Chief of Police.
- D. In each case, the Chief of Police shall review the circumstances, consider the recommendation, and determine whether the officer is able to retain his or her police authority (including firearms, ammunition, and other equipment).
- E. The Chief of Police's decision shall be transmitted to the HRD who will notify the element commander of the final determination.

VI. SERVICE OF MEMORANDUM TO PLACE AN OFFICER UNDER RESTRICTED AUTHORITY

- A. To place an officer under restricted authority, the HRD shall generate a memorandum with the reasons for the restricted duty. The memorandum shall be signed by the Chief of Police and forwarded directly to the officer's command.

- B. The memorandum shall be served by the element commander or second in command (either permanent or acting). This responsibility shall not be delegated to anyone of a lower rank.
  - 1. The memorandum shall be served to the officer in a private area. Service should not occur in the presence or view of other personnel.
  - 2. The officer shall sign both the original and copy of the memorandum. The officer shall retain the original.
  - 3. The commander shall forward the signed copy of the memorandum to the commander of the HRD.
- C. The HRD shall forward a copy of the signed memorandum to the State of Hawaii Organization of Police Officers (SHOPO).
- D. The officer shall immediately comply with the requirements of the memorandum. The element commander shall assist the officer with compliance.
  - 1. The officer shall turn in the equipment specified in the memorandum to the element commander.
  - 2. The element commander may request the assistance of the Property and Supply Section, Finance Division, for equipment storage.
  - 3. The officer's eligibility for continuance of the automobile allowance shall be in accordance with Policy 4.13, POLICE VEHICLES, and the SHOPO collective bargaining agreement.
- E. With the approval of his or her commander, the officer may elect to take an authorized leave in lieu of working a desk assignment.

VII. ASSIGNMENT AND SUPERVISION OF OFFICERS UNDER RESTRICTION OF POLICE AUTHORITY

- A. If operationally necessary and with the approval of the Chief of Police, officers may remain in their assigned element.

- B. The element to which the officer is assigned shall be responsible for supervising the officer and ensuring the officer's compliance with this directive.

VIII. WORK HOURS OF OFFICERS UNDER RESTRICTION OF POLICE AUTHORITY

- A. If operationally necessary and with the approval of the Chief of Police, officers may retain the work schedule they had before they were placed on restricted duty.
- B. If operationally necessary and authorized by the element commander, officers may work overtime and holidays.

IX. COURT ATTENDANCE, SPECIAL DUTY, AND OFF-DUTY EMPLOYMENT

- A. When subpoenaed, officers on restricted duty shall attend court dressed in appropriate civilian attire.
- B. Officers on restricted duty shall not work special duty.
- C. Officers on restricted duty may work at off-duty jobs in accordance with Policy 3.19, OUTSIDE EMPLOYMENT.

X. RECONSIDERATION OF RESTRICTION STATUS

- A. A reconsideration of restricted duty status may happen with a triggering event. A "triggering event" includes, but is not limited to:
  - 1. Sixty days have passed since the service of an order by the Chief imposing the initial restriction;
  - 2. Change of status in a criminal investigation;
  - 3. Prosecutor's Office declines criminal prosecution; or
  - 4. A protective order against the officer has expired or has been vacated.

- B. Upon a triggering event, the following shall occur:
1. If an officer becomes aware of a triggering event that may affect the status of the restricted duty, the officer shall submit a memorandum requesting reconsideration to the element commander;
  2. The element commander shall conduct a new inquiry of the facts and circumstances surrounding the restriction. The element commander shall complete the inquiry and submit a memorandum to the Chief of Police with an updated recommendation regarding the continuance of the restriction within ten business days, with a ten-day extension, where necessary. The justification for the extension shall be included in the memorandum;
  3. The officer shall be informed of any update with regard to the restriction status; and
  4. A commander who becomes aware of a triggering event may proceed without a separate request from the affected officer.

XI. INVESTIGATIONS INVOLVING MORE THAN ONE OFFICER

When two or more officers are the subject of the same investigation, they may be treated independent from each other to reconsider their restricted duty status.

XII. RETURN OF POLICE AUTHORITY

- A. An officer on restricted duty shall not return to full duty until written approval has been granted by the Chief of Police.
- B. Upon receiving documents that may relate to an officer's restricted duty status, the officer shall present copies of the documents to the element commander. Submittal of these documents shall not preclude the submission of the Notification of Criminal Proceeding/Civil Action, HPD 195 e-form, as per Policy 5.02, NOTIFICATION OF CRIMINAL PROCEEDING/CIVIL ACTION AND TRANSMITTAL OF LEGAL PAPERS.

- C. The commander shall forward the documents through channels to the Chief of Police along with a recommendation regarding the continuation of restricted duty.
- D. The Chief of Police shall make a determination on the request. The following may be considered:
  - 1. A written, final disposition of the case has been issued by the Chief of Police;
  - 2. Criminal charges have been declined by the prosecutors;
  - 3. The protective order has been rescinded or dissolved; or
  - 4. A change of status in a criminal investigation.
- E. If the Chief declines the officer's return to full-duty status, the officer shall be informed by the element commander or second in command.
- F. If the Chief approves the officer's return to full-duty status, the HRD shall prepare the necessary memorandum for the Chief's signature. After being signed by the Chief, the memorandum shall be forwarded directly to the officer's command.
- G. The memorandum shall be served by the element commander or second in command (either permanent or acting). This responsibility shall not be delegated to anyone of a lower rank.
  - 1. The memorandum shall be served to the officer in a private area. Service should not occur in the presence or view of other personnel.
  - 2. The officer shall sign both the original and copy of the memorandum. The officer shall retain the original.
  - 3. The commander shall forward the signed copy of the memorandum to the commander of HRD.
  - 4. Service of the memorandum will constitute official return of police authority.

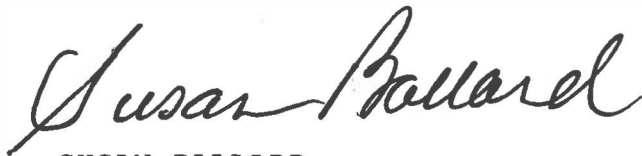


5. The HRD shall inform the supervisor of the Special Duty Section, Major Events Division, of the officer's eligibility to perform special duty.

H. The element commander shall assist the officer in retrieving his or her equipment.

XIII. LIMITED ACCESS TO INFORMATION

Every reasonable effort shall be made to ensure that access to information about the restricted duty of an officer and documents related thereto is strictly limited. For example, documents passed between the HRD and the element command shall be hand-carried. Access to the documents shall be limited to those who need to know the information.



SUSAN BALLARD  
Chief of Police

Post on bulletin  
board for one week

Policy first issued  
May 18, 2000