



COBA
DELEGATE
SEMINAR

AUGUST
24th - 27th

DISCIPLINARY PROCESS AT OATH

Presentation by
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III 1. INTRODUCTION AND PURPOSE

- Every disciplinary case begins long before an officer walks into OATH.
- Delegates are often the first people members contact when an incident occurs or when charges are served.
- The purpose of the lesson is to help delegates understand the disciplinary process, preserve evidence, protect members' rights, and know when to contact COBA.
- Delegates are not expected to act as attorneys, investigators, judges, prosecutors, or disciplinarians.

III 2. THE ROLE OF THE DELEGATE

- Serve as a representative, resource, leader, advocate, and protector.
- Listen to the member and obtain the basic facts.
- Make sure the member receives appropriate union representation.
- Help identify and preserve evidence.
- Keep the member informed and maintain confidentiality.
- Notify COBA as early as possible.
- Do not promise outcomes or tell a member to change a report.

III 3. THE DISCIPLINARY PROCESS

- Incident
- Investigation
- Command review
- Command Discipline or Memorandum of Complaint
- OATH
- Commissioner's final decision

KEY POINT:

The disciplinary process begins when the incident occurs, not when formal charges are served.

III 4. THE INVESTIGATIVE STAGE

- Investigators gather statements, reports, video, medical documentation, logbook entries, emails, and other evidence.
- The investigation may involve the Investigation Division, Trials Division, Health Management Division, command staff, or another appropriate investigative unit.
- Early involvement gives the member more opportunity to preserve evidence and prepare.

III 5. COBA VIDEO-REVIEW GUIDANCE

- When an officer is required to prepare a Use of Force Report, Use of Force Witness Report, or Incident Report, and believes a review of the incident video is necessary to prepare a complete and accurate report, the officer should end the original report with the following statement:

“I am writing this report based upon my recollection of the incident at this point. I am, pursuant to the Use of Force Directive, requesting an opportunity to review the video footage of the incident.”

- After reviewing the video, submit a supplemental report if necessary.
- If the request to review the video is denied, submit a report documenting that the request was denied.

III 6. REPORTS, SUPPLEMENTAL REPORTS, AND DOCUMENTATION

- The original report should be based on the officer's recollection at that point.
- Document any request to review Genetec video.
- Document any denial of a video-review request.
- Submit a supplemental report after video review when necessary.
- Keep copies of reports, medical documents, emails, screenshots, requests, denials, and supporting records.
- Timestamp important submissions whenever possible.

III 7. MEMORANDUM OF COMPLAINT

- A Memorandum of Complaint contains formal disciplinary allegations against a member.
- Read the actual charges and identify the conduct alleged.
- Review the rules, directives, or orders cited.
- Identify witnesses, video, reports, and other supporting documents.
- Make sure the member receives a complete copy and COBA is notified.

III 8. UNDERSTANDING OATH

- OATH is the New York City Office of Administrative Trials and Hearings.
- The process may involve conferences, settlement discussions, a trial, an Administrative Law Judge's report and recommendation, and final agency action.
- At trial, the parties may present witnesses and evidence and challenge the other side's evidence.
- Preparation should begin before the scheduled OATH date.

III 9. BURDEN OF PROOF

- Employee disciplinary cases at OATH generally use the preponderance-of-the-evidence standard.
- This means the Department must show that its version of events is more likely than not.
- This is different from the criminal-court standard of proof beyond a reasonable doubt.
- Credibility, consistency, and documentation are important.

III 10. COMMON DISCIPLINARY CHARGES

- Use of Force
- AWOL
- Medical Incompetence
- Sick Leave allegations
- Failure to Follow Orders
- Neglect of Duty
- Conduct Unbecoming
- False or Inaccurate Statements
- Erroneous Discharge
- Off-Duty Arrest matters
- Failure to Intervene
- Out - of - Residence

III 11. MEDICAL INCOMPETENCE

- Review the 40-workday and 15-occurrence provisions in the sick-leave policy.
- Determine how the Department calculated the member's absences.
- Review policy exclusions and mitigating factors.
- Review verified line-of-duty injuries.
- Collect medical documentation, treatment records, surgery records, rehabilitation records, and return-to-duty information.
- Not every absence is misconduct. Review the policy, medical record, and calculation.

III 12. USE OF FORCE CASES

- Preserve Body-Worn Camera footage and Genetec video.
- Collect Use of Force Reports, Use of Force Witness Reports, Incident Reports, injury reports, logbooks, photographs, and medical documentation.
- Identify witnesses and review supervisor actions.
- Review the applicable Use of Force directive.
- Preserve any request to review video and any supplemental report.
- Document every request.

III 13. EVIDENCE PRESERVATION

- Reports and supplemental reports
- Emails and text messages
- Medical documentation
- Logbooks and assignment records
- Photographs
- Witness names and statements
- Applicable directives, rules, operations orders, and command-level orders

KEY POINT:

Preserve evidence early and keep copies.

III 14. QUESTIONS EVERY DELEGATE SHOULD ASK

- Was there Body-Worn Camera footage?
- Was there Genetec video?
- Who witnessed the incident?
- Were supervisors present?
- What reports were prepared?
- Was medical documentation submitted?
- What directive or rule applies?
- Did the Department follow its own procedure?
- What deadlines apply?
- Has COBA been notified?

III 15. CASE STUDIES FOR GROUP DISCUSSION

AWOL

An officer submitted medical documentation, but the command says it was never received. What should the delegate do?

MEDICAL INCOMPETENCE

An officer suffered a line-of-duty injury, required surgery, remained continuously absent while recovering, and was charged under the sick-leave threshold. What records and policy language should be reviewed?

ERRONEOUS DISCHARGE

An officer reviewed release paperwork, another employee later discovered a warrant, and the officer was charged as though they released the inmate. What evidence and responsibilities must be examined?

USE OF FORCE REPORT

An officer believes video review is needed to prepare a complete and accurate report. What language should be added to the original report, and what should happen if the request is denied?



III 16. FINAL REMINDERS

- Read the applicable directive.
- Preserve evidence immediately.
- Keep copies of everything.
- Timestamp important submissions.
- Identify witnesses.
- Document requests and denials.
- Notify COBA early.
- Do not promise outcomes.
- Do not tell members to alter reports.
- Maintain confidentiality.
- Stay professional.
- Protect the member's rights.