


AURORA POLICE DEPARTMENT DIRECTIVES MANUAL

14.1	Title: OBEDIENCE TO ORDERS, DIRECTIVES AND LAWS	
	Approved By: Vanessa Wilson , Interim Chief of Police	
	Effective: 09/01/1998	Revised: 05/20/2020
	Associated Policy: DM 14.2, DM 14.3	
	References:	
Review: Internal Affairs Bureau Commander		Duty Honor Integrity
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14.1 OBEDIENCE TO ORDERS, DIRECTIVES AND LAWS

14.1.1 Lawful Orders

Any lawful order given by a command or supervisory officer must be obeyed. It is immaterial whether the order is in written or verbal form or if the order is relayed from the supervisor by an officer of the same or lesser rank. Members will not deliberately disobey or refuse any lawful order.

It is presumed that the highest-ranking officer on scene is in the best position to direct personnel and tactics during an emergency call. Command and supervisory officers should avoid giving orders to resolve in-progress emergency calls when they are not on scene, unless they perceive it to be absolutely necessary.

14.1.2 Unlawful Orders

Command and supervisory officers will be responsible for knowing whether their orders are in compliance with all applicable department and legal requirements.

Command and supervisory officers will not knowingly issue an order that is in violation of a Department Directive or Standard Operating Procedure unless special circumstances exist.

Any command or supervisory officer who issues an order that appears to violate any Department Directive or Standard Operating Procedure must have specific articulable facts that prove the order to be reasonable and necessary under the special circumstances.

Members who receive an order that violates a law, ordinance, statute, Department Directive or Standard Operating Procedure will explain to the superior officer issuing the order that they believe the order to be unlawful. If the superior officer issuing the order does not rescind the order, the member may:

- (a) Accept the order as issued - this indicates the member concurs with the order and the superior officer's reason for issuing the apparently unlawful order.
- (b) Obey the order under protest - this indicates the member will obey the order but does not agree with the order or the superior officer's reason for issuing the order. When an order is obeyed under protest, it should be noted in a memorandum following the incident. The written account will be forwarded to the appropriate Bureau or Section Command Officer via the chain of command.
- (c) Refuse to obey the order - A member who refuses to obey an order will specifically articulate in writing why the order was unlawful and that the special circumstances did not make the order reasonable or necessary. The written account will be forwarded to the appropriate Bureau or Section Command Officer via the chain of command. If it is later determined by competent authority that the order was indeed a lawful order, the member may be held accountable under Directive 14.1.1 - Lawful Orders.

14.1.3 Conflicting Orders

Members who are given a lawful order that is in conflict with a previous lawful order will respectfully inform the superior officer issuing the order of the conflict. If the superior officer issuing the latter order does not alter or rescind the conflicting order, the latter order will stand. The superior officer issuing the conflicting order is responsible for that order.

Members will obey the conflicting order and will not be held responsible for disobedience of the order previously issued.

14.1.4 Tactical and In-Progress Calls

Members on-scene at a tactical and/or in-progress emergency call may, if reasonably necessary to prevent loss of life or serious bodily injury, and if the evolving tactical situation requires, deviate from the orders given by a command or supervisory officer if that command or supervisory officer is not on scene. Any divergence from orders must be explained by the member, and will be subject to scrutiny after the call.

14.1.5 Conformance to Law

Members will, whether on or off duty, whether acting in an official capacity or not, obey all laws of the United States and of any State and local jurisdiction in which the members are present.

A finding of guilty by a judge or jury, or a plea of guilty or nolo contendere, whether judgment and sentencing is deferred or not, to a violation of any law will constitute

prima facie evidence of a violation of this section and the Department need not re-establish the facts and findings of the charge.

Regardless of the status of any criminal proceeding, the Department reserves the right to conduct an internal investigation into the underlying allegation. The Department may take disciplinary action based upon the internal investigation independent of the determination or conclusion of the criminal case.

Any member charged with or arrested for a violation of a traffic law which involves the use of alcohol or drugs, or for a traffic violation which may result in a loss of driver's license, or for a violation of a criminal law or ordinance will report such fact. The violation will be reported in writing to the Chief of Police via the chain of command on or before the member's next scheduled working day.

Upon conclusion of judicial action in the matter, the member will report the disposition and pertinent facts in writing to the Chief of Police via the chain of command. This will be done by the member's next scheduled working day.

Expected Consequences for a Member Driving Under the Influence of Alcohol or Drugs:

Nothing in this directive should be construed to apply to incidents in which a member is sustained for the use and/or possession of an illegal substance. Those situations will be handled under the guidelines of Directives 14.5, Substance Abuse, and/or other applicable directives.

The following protocols will be applied to a member, sustained in an internal investigation, involving driving under the influence of alcohol or prescribed and legally obtained drugs (DUI):

- First occurrence for DUI: Presumption is 160 hour suspension for Conformance to Law. Note: There is no requirement for the member to have been arrested to result in an internal administrative finding of sustained for a violation of conformance to law arising from a DUI incident.
 - Aggravating Factors
 - First Line Supervisor = + 40 hours
 - Command Officer = + 80 hours
 - Involved in a non-injury accident = + 40 hours
 - Involved in an injury accident = Up to termination
 - On-Duty at time of arrest = Up to termination
 - In a city-owned vehicle = Up to termination
 - Off-Duty, but in uniform = Up to termination
 - Fleeing from the scene – traffic stop or accident = Up to termination
 - Unusually high BAC = Up to termination

- Carrying a firearm while under the influence = Up to termination
- Other factors indicating conduct negatively impacted or could have impacted public safety = Up to termination

- Second or subsequent occurrence for DUI: Presumption is termination for Conformance to Law. Note: There is no requirement for the member to have been arrested to result in an internal administrative finding of sustained for a violation of conformance to law arising from a DUI incident.
 - Mitigating Factors
 - BAC less than .08%

Expected Consequences for a Member Who Loses Driving Privileges:

Any legal action, whether or not related to alcohol or drugs, that results in a member receiving restrictions against or the loss of driving privileges for more than one year: the presumption is termination.

Expected Consequences for a Member Who Has Restrictions on Firearm Possession:

Recognizing that federal law may prohibit anyone under a domestic violence restraining order from possessing a firearm, the Department has a need to know when any member is served with such an order. Any member who is served with a domestic violence restraining order will notify the Chief of Police, via the chain of command, and provide a copy of the order before the member's next scheduled duty day. The member will then report to the Internal Affairs Section at 0800 on the next business day for a review of the order. The member will be prohibited from performing any armed police duties until the order is reviewed by the Internal Affairs Section and Legal Advisor to assess the member's legal authority to carry a firearm.

14.1.6 Conformance to Directives

Members will observe and obey all Department Directives, Special Orders and Standard Operating Procedures. All members have the responsibility to become thoroughly familiar with the provisions and regulations of this Department Directives Manual and are expected to know and assume their duties and obligations. In the event of breach of discipline or violation of some law, rule, directive, procedure or other duty, it will be presumed that the member was familiar with the law, rule, directive, policy or other duty in question.