

## **TOPIC    CRIMINAL CHARGES**

- POLICY**    **Employees are expected to exhibit honesty, integrity and high standards of personal conduct. Government will not tolerate employee criminal behaviour that negatively impacts the government's interests, property, security, reputation, employee safety or the confidence of the public. This applies to both on-duty and off-duty conduct for**
- **offences under the Criminal Code of Canada**
  - **drug related offences under any federal statute**
  - **offences under any other Act.**

## **QUESTIONS AND ANSWERS**

1.    When must employees notify the manager that they are being investigated by police or have been charged with a criminal offence?
2.    What action does a manager take if an employee allegedly commits a criminal offence while on-duty?
3.    How does a manager decide the level of discipline for an on-duty criminal offence?
4.    What action does a manager take when an employee is under police investigation or is charged with a criminal offence for off-duty conduct?
5.    What action does the manager take when the police investigation is finished and any criminal charges are dealt with by the courts?
6.    How does a manager assess the impact on the workplace of an employee's on-duty or off-duty conduct?
7.    What is an employee's status during the employer's investigation?
8.    Does placing an employee on leave of absence assume the employee is guilty?
9.    What action does a manager take regarding work assignment for an employee?

## **AUTHORITY**

- *Civil Service Act 24*
- Civil Service Regulations 17(2)
- GEMA 8:01, 14:01
- Oath of Office Policy
- Corrective Discipline Policy
- Civil Service Commission Board, CSC Minute #15-97/98-15

**Effective date** March 11, 1998

## QUESTIONS AND ANSWERS

### 1. ***When must employees notify the manager that they are under investigation by police or that they have been charged with a criminal offence?***

It depends on the type of alleged criminal offence.

TYPE OF OFFENCE	EMPLOYEE OBLIGATION
On-Duty conduct leading to investigation or charges under any act.	Employee must notify manager immediately.
Off-Duty conduct leading to investigation or charges under the Criminal Code of Canada or a drug related offence under any federal statute.	Employee must notify the manager immediately.
Off-Duty conduct leading to investigation or charges under any other act.	Employee <assesses the impact> on the workplace and notifies the manager if there is an impact or potential impact. If uncertain, the employee consults the manager.

An employee who fails to disclose alleged criminal conduct that impacts the workplace is subject to disciplinary action.

### 2. ***What action does a manager take if an employee allegedly commits a criminal offence while on-duty?***

The manager

- immediately places the employee on a leave of absence without pay
- conducts an investigation to determine the facts
- consults with Labour Relations and if necessary Civil Legal Services to determine if the incident(s) should be reported to the police
- <assesses the impact> of the alleged criminal offence on the workplace
- applies appropriate <corrective discipline>.

### **3. How does a manager decide the level of discipline for an on-duty criminal offence?**

When an employee allegedly commits a criminal offence while on-duty, the manager conducts an investigation to determine the facts and to <assess the impact> of the offence on the workplace. The manager consults Human Resources or Labour Relations and applies appropriate <corrective discipline>. Dismissal is generally the response if the conduct is work-related or breaches the <Oath of Office>. The decision to discipline or dismiss an employee is separate from and made independently of the criminal justice process. A manager does not wait for charges to be laid or for a court disposition before applying corrective discipline for on-duty conduct. A decision to report matters to the police is also made independently of decisions about corrective discipline and should be made in consultation with Human Resources, Labour Relations and Civil Legal Services.

### **4. What action does a manager take when an employee is under police investigation or is charged with a criminal offence for off-duty conduct?**

When an employee is under police investigation or is charged with a criminal offence for off-duty conduct, the manager:

- conducts an initial interview with the employee to determine the facts
- places the employee on a leave of absence without pay if a more thorough investigation is required to determine the facts
- <assesses the impact> of the alleged off-duty conduct on the workplace
- takes one of the following actions:
  - If there is no impact, the manager returns the employee to current duties in the workplace as soon as possible.
  - If there is an impact, the manager consults Human Resources regarding alternative <work assignments>.
- The manager consults with the employee on a regular basis concerning the status of the investigation or the criminal charges.

### **5. What action does a manager take once the police investigation is finished and any criminal charges are dealt with by the courts?**

The manager consults with Human Resources and Labour Relations to conduct an assessment of the employee's status and reviews employment options. Employment options will depend on a number of factors including the court disposition and any continued impact on the workplace. The manager takes <corrective discipline> action if

required and returns the employee to the workplace if appropriate.

## **6. How does a manager assess the impact on the workplace of an employee's on-duty or off-duty conduct?**

The manager assesses the impact of the employee's conduct on the workplace by considering the following factors:

- Risk** Does the employee's presence in the workplace create concerns regarding the safety of employees or the security of government's property? Are employees reluctant to work with the employee?  
Example: An employee allegedly assaults a co-worker at an event both attended while off-duty.
- Competence** Can the employee continue in the current work assignment?  
Example: Bail conditions prohibit a child care worker from having contact with children
- Employer's Business Interests** Does the conduct present potential or real harm to the service provided by the employer?  
Example: A systems analyst is charged with fraud related to the inappropriate use of the information system of a previous employer.
- Type of Work** Is the conduct directly related to the employee's current duties? Does the employee hold a position of trust?  
Example: An employee whose duties involve handling cash is charged with shoplifting.
- Department Values** Does the conduct violate a value or principle held by the department?  
Example: An employee of Manitoba Justice is charged with impaired driving and the department has a zero-tolerance policy on drinking and driving.
- Reputation and public confidence** Does the conduct potentially affect the department's reputation with the general public and with clients?  
Example: A social worker in Manitoba Family Services is charged with child abuse.  
Example: An employee of Manitoba Justice is charged with any criminal offence.

## **Employee's Role**

**in the Organization** An employee in a professional or management position must demonstrate a higher standard of conduct than other employees.

### **7. *What is an employee's status during an employer's investigation?***

Any allegation of criminal behaviour related to on-duty or off-duty conduct is a serious matter. An employee under investigation or charged with a criminal offence is generally placed on leave of absence without pay pending the outcome of the employer's investigation. This leave is non-disciplinary in nature and the manager can allow the employee to use vacation or banked time for part or all of the leave. Any other leave arrangement must be reviewed with Human Resources and Labour Relations. When all the facts are known, the manager <assesses the impact> on the workplace and makes decisions about <corrective discipline> and the employee's employment status.

### **8. *Does placing an employee on leave of absence assume the employee is guilty?***

No. Leave of absence without pay does not change the presumption of innocence in the same way that detaining a person in custody pending trial does not reflect on the person's guilt or innocence.

### **9. *What action does a manager take regarding work assignment for the employee?***

If the manager determines there is no impact on the workplace, the employee is returned to current duties. If the manager determines there is an impact on the workplace, the manager consults Human Resources and determines if the employee is unable or unsuitable to perform the current duties. Sometimes alterations can be made to the position to ensure there is no impact and allow the employee to work. If alteration to the position is not possible, what other work is available for the employee in the department or in another department that would have no impact? Note: any re-assignment to another position must be at an equal or lower classification level for the duration of the assignment.

---

**COMMENT BOXES**

<b>Corrective discipline</b>	See also Corrective Discipline Policy 3.4.1
<b>Assess the impact</b>	Link to Question 6
<b>Oath of Office</b>	Link to Oath of Office Policy 2.5.3
<b>Work assignments</b>	Link to Q9